

# **Voltaire and the Parlements**

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*To Eithne and Seamus Hanrahan*

## **DECLARATION**

I certify that this thesis does not include, without acknowledgement, any material previously submitted for a degree or diploma in any university; and that, to the best of my knowledge, it does not contain any material previously published or written by another person without due reference being made in the text.

Signed:

## ABSTRACT

The parlements of France appear regularly in the background of studies on Voltaire, whether as a conservative censoring authority, a self-interested opponent of a reforming monarchy, or, intolerant dispensers of inadequate justice. They appear constantly as enemies of Enlightenment.

This study aims to bring Voltaire's relationship with the courts to the foreground, examining his reaction to them during the reign of Louis XV and showing that this reaction is continually evolving, as opposed to the fixed image mentioned above.

Part One explains Voltaire's youthful admiration for the Gallican parlements and shows that, before the 1750s, his reaction to them was not particularly hostile (Chapter 1). His attitude wavers between apathy and mild frustration before the attack of Damiens on the king in 1757, which awakened him to the dangerous influence of certain magistrates' religious zeal (Chapter 2).

Part Two examines the effect of certain miscarriages of justice perpetrated by the parlements of Paris and Toulouse on Voltaire's view of the courts and how this changing view influenced his decision to write a history of the principal parlement in the capital (Chapter 3). This is followed by a close examination of Voltaire's anti-*parlementaire* rhetoric in the *Histoire du parlement de Paris* (Chapter 4).

Part Three questions the established interpretation of Voltaire's political thought through a comparison of the *Histoire du parlement de Paris* and the *Précis du siècle de Louis XV* (Chapter 5) and supports this analysis with an examination of Voltaire's support for the suppression of the parlements by chancellor Maupeou in 1771, showing an alternative understanding of Voltaire's aims in supporting royal authority (Chapter 6).

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2006 and carry out further research, which was essential for the completion of my thesis. This grant was complemented by an award from the University of Edinburgh Student Travel Fund.

I express my deepest gratitude to my parents, to whom I dedicate this thesis, and my family for their constant support in every way over the past three years. For their help with the establishment of the final document, I must thank Seamus Hanrahan and Fidelma Hanrahan. Finally, I would like to thank Claire McGee for always reminding me of the important things in life.

## ABBREVIATIONS

- BV Bibliothèque de Voltaire. Catalogue des livres (Moscow-Leningrad, 1961)
- D *Correspondence and related documents*, ed. Theodore Besterman (Geneva: Institut et musée Voltaire, 1953-1965)
- FHS French Historical Studies
- M *Œuvres complètes*, ed. Louis Moland, 52 vols (Paris: Garnier frères, 1877-1885)
- OCV *Œuvres complètes de Voltaire/ Complete Works of Voltaire* (Oxford: VF, 1968-)
- PUF Presses Universitaires Françaises
- SVEC Studies on Voltaire and the Eighteenth Century
- VST René Pomeau *et al*, *Voltaire en son temps*, 5 vols (Oxford: VF, 1985-94)
- VF Voltaire Foundation



## INTRODUCTION

Animated by the rising wave of rejection of arbitrary procedure, despotism, and the corruption of the preceding reign, Voltaire and the Parlements re-emerged together, although they were great enemies, as is known.<sup>1</sup>

This is how one historian describes two important moments during the reign of Louis XV, the return of Voltaire to Paris after more than thirty years of exile, and the return of the parlement of Paris, whose magistrates had been exiled as part of chancellor Maupeou's reforms of the judicial system in 1771. What is interesting about Franco Venturi's statement is that it contains what appears to be a contradiction when it is read in the context of the generally accepted view of Voltaire's relationship with the parlements. Generally, 'Voltaire and the parlements' is understood as 'Voltaire *versus* the parlements', and perhaps not without reason: his involvement in a number of judicial *causes célèbres* during the 1760s – the cases of Jean Calas and the chevalier de La Barre would ring a bell for any student of eighteenth-century French studies – seems to pit him immediately against the parlements, in other words, the

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<sup>1</sup> Franco Venturi, *The End of the Old Regime in Europe, 1768-1776*, trans. by R. Burr Litchfield (New Jersey: Princeton University Press, 1989), p.360.

courts that administered these injustices. This notion is seemingly contradicted by the fact that similar reasons, according to Venturi, saw the return of the *philosophe* and the parlements after the death of Louis XV. Such a contradiction forces us to call into question the opposing elements that constitute it. Did Voltaire and the parlements re-emerge after the reign of Louis XV because they were ‘animated by the rising wave of rejection of arbitrary procedure, despotism, and the corruption of the preceding reign’? Perhaps, but we could more accurately note that Voltaire had been keen to return to the city of his birth since the very moment of his exile; his wish to return to the capital was a constant concern. As for the parlement of Paris, it should be noted that Louis XV had agreed in principle to the return of the old magistrates before his death;<sup>2</sup> the fact that the princes of the royal blood threatened to refuse to attend the funeral of the defunct monarch if the members of Maupeou’s parlement were present would certainly have influenced this return, as would the fact that public opinion seemed to demand it.<sup>3</sup> Is it ‘known’ that Voltaire and the parlements were ‘great enemies’? The generally expressed view of Voltaire’s relationship with the courts suggests so, but I would contend that that such a view is inaccurate for three main reasons.

First, the parlements regularly appear in the background of studies on Voltaire, which is to be expected, as the courts were an important and influential institution in the France of Louis XV.<sup>4</sup> This is not to mention the relations that

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<sup>2</sup> Jacob Nicolas Moreau, *Mes souvenirs*, 2 vols (Paris: Plon, 1901), ii.89-90.

<sup>3</sup> Venturi, *The End of the Old Regime in Europe*, p.360.

<sup>4</sup> Pierre M. Conlon, ‘Voltaire’s literary career from 1728-1750’, *SVEC* 14 (1961); Jose Cubéro, *Une victoire sur l’intolérance: l’affaire Calas* (Pau: Editions Cairn, 2006); Peter Gay, *Voltaire’s Politics, the Poet as Realist* (New Jersey: Princeton University Press, 1959); René Pomeau, *VST*, vol.4, «Ecrasez l’Infâme» (Oxford: VF, 1994), François Quastana, *Voltaire et l’absolutisme éclairé (1736-1778)* (Presses Universitaires d’Aix-Marseille, 2003).

Voltaire was destined to have with the courts, whether in their role as a censorship authority, or as courts of justice with a quasi-political function. I believe that the parlements' haunting of the horizons – the negative connotation is particularly apt – of studies on Voltaire, and the resulting view that such a role imposes on them, demands that we focus more closely on Voltaire's actual relationship with them, as opposed to making general assumptions about this relationship based on a focus that is clearly elsewhere.

Second, the kind of historical understanding that is imposed on analyses of Voltaire, and the Enlightenment in general, mirrors a particular historiographical approach to the *ancien régime*. Such an approach presents us with a Manichean dichotomy which pits those who support reform in direct opposition to those who prevent it. Certain institutional histories of eighteenth-century France exemplify this approach in which the parlements are often presented as egotistical, obscurantist and conservative opponents of necessary reform under Louis XV and Louis XVI.<sup>5</sup> These monarchs, whose mandate for carrying out reform is their own 'absolutism', are absolved of their failure to give their absolute support to reforming ministers. The parlements' justifications for their opposition are seen as pretensions to a political role, which they cannot possess, again, because of the king's 'absolutism'.

Absolutism, as a model for understanding the practice of the politics of *ancien régime* France is not questioned in such analyses in spite of the very obvious

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<sup>5</sup> Michel Antoine, *Louis XV* (Paris: Fayard, 1989); Pierre Gaxotte, *Le siècle de Louis XV* (Paris: Fayard, 1933); Marcel Marion, *Machault d'Arnouville. Etude sur l'histoire du contrôle général des finances de 1749 à 1754* (Paris: Hachette, 1891); François Olivier-Martin, *L'Absolutisme français suivie de Les Parlements contre l'absolutisme traditionnel au XVIIIe siècle*, 2<sup>nd</sup> edn (Paris: LJDJ, 1997); André Zysberg, *La monarchie des Lumières, 1715-1786* (Paris: Seuil, 2002).

observation that could be made: surely, the very fact of the parlements', at times successful, opposition to the crown shows that the king's absolutism was not absolute in practice. Certainly, more recent histories of the politics of this period have brought more balance to the question.<sup>6</sup> However, in their place in the background of studies on Voltaire, the courts still play the role of conservative opponents of reform. For example, Voltaire's support for reforming ministers such as Machault or Maupeou and his criticism of the opposition of the courts serves to confirm the enlightened absolutism of Louis XV and consequently cements the dichotomy which opposes the parlements and the crown. That this dichotomy has been increasingly questioned in more recent times forces us to reassess its accuracy when looking at Voltaire's relations with the crown and the parlements.

Third, the historical understanding that I have just mentioned tends to lead to anachronistic statements about Voltaire and his view of the courts. At the end the 1760s and in the early 1770s, Voltaire's works show his view of the sovereign courts at its most critical and, as we shall see in Chapters 3 and 6, there are specific reasons for this, not least Voltaire's increasing interest in the question of justice. Voltaire's relationship with the courts is often explained by *a priori* historical reasoning that imposes views expressed in particular circumstances later in his life on his earlier relationship with the courts. The general principle from which the expected results are deduced is that Voltaire and the parlements were enemies. Though proof to back

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<sup>6</sup> Peter Campbell, *Power and Politics in Old Regime France, 1720-1745* (London and New York: Routledge, 1996); J.M.J. Rogister, *Louis XV and the Parlement of Paris, 1737-1755* (Cambridge: CUP, 1995); Julian Swann, *Politics and the Parlement of Paris under Louis XV, 1754-1774* (Cambridge: Cambridge University Press, 1995).

this up is certainly available, I believe that this flawed general principle does not allow the complexity of the question to be fully investigated.

These three problems, which are evident in the general understanding of Voltaire's relationship with the parlements, inform the methodological approach which I shall adopt in this study. In order to avoid the *a priori* historical reasoning just mentioned, I have adopted a broadly chronological approach, which attempts to underline the importance of the evolution of Voltaire's attitude towards the courts. I have also tried to be particularly vigilant in my use of Voltaire's correspondence, as, at times, it seems that simply delving into this vast source could prove any point that one would wish, such is the volume of material and the breadth of subjects covered. The citing, out of context, of words written in a fit of passion, or panic, or relating to a very specific issue, can be totally misleading, as can the attributing of statements that may or may not have been made.<sup>7</sup> The context of Voltaire's enunciation of statements on which I rely will therefore be of great importance.

Part One of the thesis deals with the period of Voltaire's life preceding the death of Jean Calas. Because of the mobilising effect of this case on Voltaire and its inevitable effect on his view of the magistrates and the French justice system, it is important to analyse his relationship with the courts before this significant event. I show in Chapter 1 that Voltaire's reaction to the magistrates is initially positive because of his early attachment to the *parlementaire* milieu. If a negative image of

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<sup>7</sup> A political commentator recently cited Voltaire in defence of freedom of speech crediting him with a *bon mot* to the effect that the *philosophe* might hate what an individual had to say, but would fight to the death to protect his right to say it. Voltaire may have said this, but if he did he certainly did not believe it. It tells us nothing of the individual who would have been much happier to see the critics of his enlightened reason silenced.

the magistrates begins to appear in his works in the period before the mid-century then this is because the magistrate was a stock literary character, vain and pompous, and therefore subject to mockery. An examination of the role of the parlement of Paris as a censorship authority shows that, as a censor, it targeted Voltaire no more than the religious or royal authorities did. Chapter 2 shows how Voltaire reacts to the courts with sarcasm and levity until the attack by Robert François Damiens on the king, an attack resulting from religious fanaticism, which convinced him of the real danger presented by the religious quarrels in which the parlements had played a leading role. Moreover, the courts' opposition to the crown's fiscal demands proved to be disloyal and dangerous for the state during the Seven Years' War, giving Voltaire further reasons to be wary of their influence during this period.

In Part Two, the judicial *causes célèbres* of the 1760s – Calas, Sirven, La Barre - are first analysed (Chapter 3) and followed by an examination of the *Histoire du parlement de Paris* (Chapter 4). The origins of the latter, an anti-*parlementaire* history, are often explained by the former, the injustices against Calas, Sirven and La Barre, flawed judicial decisions confirmed by the parlements.<sup>8</sup> In this section, I question such a simplistic explanation and look instead to the effect of particular cases on the development of Voltaire's view of the courts and to the broader question of justice. I also provide a comprehensive textual analysis of the *Histoire du parlement* which shows Voltaire's polemical approach to history and the tactics he employs to achieve it.

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<sup>8</sup> Guy Chaussinand-Nogaret, *Voltaire et le Siècle des Lumières* (Brussels: Editions Complexe, 1994), p.103; Nuci Kotta, 'Voltaire's *Histoire du parlement de Paris*', *SVEC* 41(1966), p.224; Pomeau, *VST*, vol.4, «*Ecrasez l'Infâme*», p.385. Raymond Trousson and Jerom Vercruysse, *Dictionnaire général de Voltaire* (Paris: Honoré Champion, 2003), article 'Histoire du Parlement de Paris'.



A cornerstone of my methodological approach to the *ancien régime* rejects theoretical models that produce the kind of dichotomies that warp history. For this reason I reject 'absolutism' as an unhelpful model for understanding politics in the reign of Louis XV (while at the same time I do not deny that certain monarchical practices under Louis XV could be described as 'absolutist'). The result of such an approach is a re-posing of the question of Voltaire's political thought, which has for so long been understood as supportive of monarchical absolutism. Part Three challenges previous interpretations of Voltaire's political thought through a comparative analysis of his presentation of contemporary French history (Chapter 5). Such an analysis shows that the political views expressed in particular works cannot be separated from the specific purposes of the works in question. This poses a certain problem for those who wish to investigate Voltaire's political thought, and any other area of his thought, for that matter. The final chapter re-interprets Voltaire's reaction to the 'coup d'état Maupeou' in the light of the findings of Chapter 5. Dogmatic adherence to absolutism is shown to be less in evidence than the practical politics of a pragmatic *philosophe*, when we examine closely the rhetoric of his support for the chancellor's reforms.

My examination of the question of Voltaire and the parlements is, therefore, a case study in the question of Voltaire's politics, which does not confine itself to a restrictive notion of the 'political'. Moreover, it is hoped that this thesis will also make a significant contribution to the important question of Voltaire and justice

under the *ancien régime*, one that is inseparable from his political views and one that has been receiving increased attention in recent times.<sup>9</sup>

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<sup>9</sup> See, for example, the recent international conference on the question of 'Voltaire, la tolérance et la justice, 1762-78', Edinburgh, 8-10 September, 2006.



## **Part One**

## CHAPTER 1

### Voltaire and the Parlements, 1715-1750

Contrary to the virtually unanimous opinion that Voltaire and the parlements of France were sworn enemies, both because of the *philosophe*'s propounding of Enlightenment ideas of justice, tolerance and reason and because of the parlements' inherent conservatism and obscurantism, an examination of his relationship with these judicial institutions and their magistrates over the majority of his adult life shows that, at best, such a view is an exaggeration.<sup>1</sup> In fact, Voltaire's early reactions to the courts were far from the negative assessments that punctuated the later years of his literary career. In order to understand this evolution, and before assuming that an author in the vanguard of Enlightenment must have detested self-interested and privileged judges, we must look at Voltaire's origins and his early attachment to the *parlementaire* milieu, as well as assess his presentation of the magistrates in his literary works. The parlements' role as a censorship authority must also be

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<sup>1</sup> Only Robert S. Tate Jr. has turned the dichotomy of Voltaire versus the parlements on its head by considering in what way the concerns of the *philosophe* and the courts were similar: 'Voltaire and the parlements: a reconsideration', SVEC 90 (1972), p.1529-43.

addressed, as this would certainly have an effect on Voltaire's view of his censors. But, before such an analysis is undertaken, it is essential to understand the history and role of the parlements of France, whose name, because of its resemblance to the familiar 'parliament', may mislead the unacquainted reader.

### ***The Parlements of France***

It is perhaps a contradiction that the parlements of France have come to be seen by many as an opposing force to the monarchy.<sup>2</sup> The opposition of these courts of justice to the absolutism of the Bourbons, their attempts in the eighteenth century to fortify their political role, which had fluctuated since the establishment of a sedentary parlement in Paris six hundred years previously, indeed, their abandonment of the Third Estate just before the *Etats Généraux* of 1789, make them in some way a locus of opposition to the French nation. However, the history of the creation of the thirteen parlements is the very expression of the consolidation of the duchies, counties and kingdoms that once formed what we now call France. The jurisdictions of these courts, divided in such irregular fashion, are a testament to the piecemeal establishment of centralised monarchical power, for these institutions dispensed the king's justice, the essence of his sovereign rule.

Notwithstanding the competing historical narratives that explain the origins of the courts and reveal the competing constitutional claims of the monarchy and

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<sup>2</sup> See, for example, Michel Antoine, *Louis XV* (Paris: Fayard, 1989): 'Entamée par Henri II, continuée malgré les guerres de Religion, poursuivie par Henri IV et Sully, par Louis XIII et Richelieu, par Louis XIV et Colbert, la modernisation de l'Etat a été, en effet, obstinément freinée par les cours supérieures et, en dernier [...] elles [the sovereign courts] s'étaient évertuées, d'usurpation en usurpation, à instaurer le despotisme des juges' (p.928).

parlements during the eighteenth century, even a conservative estimate would put the date of the first institution of a parlement in Paris at some time during the reign of Louis IX, the future Saint Louis (1226-1270).<sup>3</sup> As the administration of justice had become more complicated by this time and required increasingly specialised legal knowledge, the great lords and barons who formed the *curia regis*, the royal court, while still retaining their function as peers who judged with the king in his court, ceded the day-to-day functioning of the judicial administration to the *magistri curiae*, clerics with the necessary technical expertise in legal matters. These historical origins which could be traced back to a peripatetic royal court where the king judged with his peers, in the Germanic tradition, meant that in the eighteenth century the parlement of Paris would still be seen as the *cour des pairs*, the court of Peers where the dukes, peers and princes of the royal blood had a right to sit and pass judgement. What this actually meant in practice was open to interpretation, as we shall see in the following chapters.

As the great fiefs were gradually joined to the royal domain, the sovereign courts of these jurisdictions were either elevated to the status of provincial parlements from which appeals could be made to that of Paris, or, alternatively, judicial commissions were sent from the parlement of Paris to these courts. The parlement of Toulouse was the most ancient after that of Paris and in the early days of its existence – it was established by the edicts of 1437 and 1443 – it contested its subordination to the capital's court. Eventually, the right of appeal which the parlement of Paris offered to litigants put paid to any such notions of independence.

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<sup>3</sup> Joseph Hugh Shennan, *The Parlement of Paris*, 2<sup>nd</sup> edn (Stroud: Sutton Publishing, 1998), p.14. The first mention of the parlement (*pallamentum*) in references to the king's court is from 1239.

The fifteenth century also saw the establishment of parlements at Grenoble (1453), Bordeaux (1462), Rouen (1499) and at what would be Voltaire's local court in Dijon (1477) once he settled in Ferney. In 1501 the parlement of Provence was established at Aix and after Brittany was finally joined to the kingdom in the sixteenth century it received a parlement at Rennes in 1553. Pau, Metz, Besançon and Douai all witnessed the creation of parlements in the seventeenth century, the last two after the conquest of Franche-Comté and Flanders, respectively, by Louis XIV. Finally, it was not until 1775 that a parlement was established in Nancy after the duchy of Lorraine was acquired by the crown on the death of Louis XV's father-in-law, Stanislas of Poland, in 1766.

Of course, it must be remembered that the parlements were at the very top of the judicial structure, and that numerous and various subaltern and parallel jurisdictions existed. The *présidiaux* were tribunals created by edict in 1551 to deal with minor affairs that would have prevented the parlements from carrying out their more important functions. These presidial courts had jurisdiction over appeals from the *sénéchaussées* and *baillages*, courts which occasionally challenged their superiority. In fact, jurisdictional jealousies were very much a feature of the court system in *ancien régime* France and, given the fact that 'les baillages, en effet, n'avaient jamais été délimités par une autorité supérieure',<sup>4</sup> why would they not try to judge whoever should come before them when passing judgement could be a lucrative business, the judges receiving payment from litigants known as *épices* for their services? The exact jurisdictions of other courts such as the *chambres des*

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<sup>4</sup> Marcel Marion, *Dictionnaire des institutions de la France aux XVIIe et XVIIIe siècles* (Paris: Picard, 1923; repr. 1984). Article 'Baillage'.

*comptes* (which verified the accounts of all the king's agents) and *cours des aides* (which judged cases relating to taxes such as the *taille*, *octroi* and *gabelle*) were also poorly defined, as was that of the *Grand Conseil*. The purpose of this last court was to judge cases in which the parlement of Paris would have lacked the necessary impartiality, a situation which led inevitably to jurisdictional rivalry between these two courts of the capital.

While the parlements of France may have varied greatly in the size of their respective jurisdictions - a reflection of their discrete origins – their general structure was similar in each case. Each court contained a *grand'chambre*, the most important chamber where the most experienced magistrates sat. At the head of these magistrates was the *premier président*, the only member of the court to be named by the king, who presided over the *grand banc* of *présidents à mortier*. While the *premier président* may have been the 'king's man' in parlement, the *gens du roi*, also referred to as the *parquet*, represented his interests and the respect for public law. The *procureur général*, named by the king, would bring the sovereign's orders to the court when required and would draft written conclusions when prosecuting on behalf of the crown. He led the *avocats généraux* who would present his conclusions orally to the court. Lay and clerical counsellors, as well as honorary counsellors, also sat in the *grand'chambre*, as did the dukes and peers and presidents of the other chambers. The *grand'chambre* was the only chamber in which oral pleading took place and was therefore constantly peopled with other auxiliary judicial officers such as the *avocats* and *huissiers*.

Written pleas were dealt with by the chambers of *Enquêtes*, each of which had two *présidents* and numerous counsellors, usually younger, less experienced and

more radical in their pronouncements than their conservative colleagues in the *grand'chambre*. Of course, some of the counsellors of *Enquêtes* would themselves become *grand'chambriers*, for this chamber was where such a career began. The chamber of *Requêtes* had cognisance of cases which holders of letters of *committimus* bearing the Great Seal brought directly to the parlement of Paris, bypassing inferior jurisdictions.<sup>5</sup> Such a privilege was limited to the higher echelons of hierarchical *ancien régime* society, for example, the dukes and peers, bishops and archbishops, *conseillers d'Etat* and officers of the *Grand Conseil*, not to mention the forty immortals of the *Académie française*. Three chambers had a continually changing membership, presided over in turn by members of the other chambers. These included a chamber dedicated to criminal cases, the *Tournelle*, another dedicated to cases relating to sea fishery, the *chambre de la marée*, and finally the *chambre des vacations*, which provided a skeleton service during the judicial vacations (14 September – 27 October). From 27 October until the *rentrée judiciaire* after the winter feast of St. Martin, all judicial proceedings would cease at the *Palais de Justice*, the home of the parlement of Paris.

While the function of the parlements was obviously the administration of the king's justice, the magistrates involved themselves in every area of public life. The lawyer, Barbier, described in his journal their reaction to a fire near the *Palais de Justice* in 1718. All the magistrates came to survey the damage caused, even the *premier président* and the *procureur général*, and 'pendant trois jours les magistrats

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<sup>5</sup> Such letters bearing only the *petit sceau* allowed their holders direct access to justice in the provincial parlement in whose jurisdiction they found themselves. Some jurisdictions, however, did not accept these letters, such as Alsace, Artois, Brittany, Dauphiné, Flanders, Franche-Comté and Hainault.



ne cessèrent d'y aller donner des ordres.' Soon after, 'il y a eu un arrêt du parlement qui a ordonné une quête générale dans toutes les paroisses de Paris pour dédommager des pertes de cet incendie'.<sup>6</sup> This attitude shows that the *parlementaires* believed that nothing was beyond their jurisdiction or competence; it has been described by Albert Colombet as 'absolutisme parlementaire'.<sup>7</sup> There is no doubt that the magistrates dominated the urban centres they inhabited, whether through their preponderance in all public matters or their ceremonial presence at the numerous public processions which gave a rhythm to the life of their respective towns. According to Michel Figeac and Caroline Le Mao:

La suprématie civile du Parlement est donc clairement affirmé et soulignée par le faste des costumes, car pour ces cérémonies, Messieurs [the *parlementaires*] apparaissent habituellement en habit d'apparat, à savoir la robe écarlate, le manteau écarlate fourré d'hermine avec l'épitoge et le mortier de velours noir galonné d'or pour les présidents, et la robe rouge à chaperons fourrés pour les conseillers. Les processions sont donc véritablement l'occasion d'un "spectacle des valeurs" et quand bien même on constate, au XVIIIe siècle, que la procession devient moins une cérémonie religieuse qu'une institution sociale, il n'en demeure pas moins qu'elle reste le reflet des valeurs de l'organisation humaine.<sup>8</sup>

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<sup>6</sup> Edmond-Jean-François Barbier, *Journal historique et anecdotique du règne de Louis XV*, 4 vols (Paris: J. Renouard, 1847-56), i.3-5.

<sup>7</sup> Albert Colombet, *Les Parlementaires Bourguignons à la fin du XVIIIe siècle*, 2<sup>nd</sup> edn (Dijon: the author, 1937). It is possible that Colombet's comment is tongue in cheek, given the parlement's supposed opposition to monarchical absolutism. However, his justification is convincing: 'Il [the parlement] est la Cour Suprême. Il a le dépôt des lois, il les sanctionne par l'enregistrement, il en vérifie les applications. Il a le droit de contrôler divers organismes, leurs administrations, leurs fonctions, leur rôle. Il peut émettre des remontrances pour "faire parvenir la vérité au pied du trône". En second lieu, toujours en liaison avec ces mêmes principes, il s'arrogera le pouvoir d'intervenir en toutes matières. Sa compétence sera illimitée. Tous les domaines seront le sien. C'est pourquoi il ne se contentera pas de rendre la justice, mais qu'il édictera des mesures de police et d'ordre social, fiscal, économique, administratif et même ecclésiastique, et qu'il jouera un rôle politique' (p.311).

<sup>8</sup> Michel Figeac and Caroline Le Mao, 'Le Parlement de Bordeaux et la cité, de la Fronde à la veille de la Révolution', in eds Olivier Chaline and Yves Sassier, *Les Parlements et la vie de la cité, XVIe – XVIIIe siècle* (Rouen: Université de Rouen, 2004), p.257. Of course, the magistrates (self-)importance was not viewed favourably by all: Colombet cites a member of one of the corporations of Dijon who looks forward to the day when he will no longer have to watch the magistrates 'marcher d'un pas



This preponderance in public matters went from the grandiose to the very modest, with the Parisian magistrates having responsibility, at various times in the parlement's history, for the cleanliness of public highways, the upkeep of public monuments, even the verification that householders were keeping the spaces before their dwellings clean. More important than ensuring that the Parisians were house-proud was the parlement's obligation to make sure that a sufficient supply of bread was available in the capital and also to secure the supply of fish to the wealthier inland souls.<sup>9</sup>

The political function of the parlements, particularly that of Paris, stems from their role as a depository of the laws of the kingdom. While the royal authority may have seen the parlement's registration of its legislative pronouncements as simply a customary practice (such as the practice in many states today of the publication of new acts of parliament in an official state journal), the parlements saw this practice as a necessary requirement for the king's laws to take on a binding characteristic. Boucher d'Argis explained this in his article 'Enregistrement' in the *Encyclopédie*:

Les enregistrements des nouvelles ordonnances n'est pas comme on voit un simple cérémonial et en insérant la loi dans les registres, l'objet n'est pas seulement d'en ordonner le caractère de loi, qu'elle n'aurait point sans la vérification et enregistrement, lesquels se font en vertu de l'autorité que le roi lui-même a confié à son Parlement.<sup>10</sup>

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pédantesque aux cérémonies publiques, affublés d'une robe ridicule' (*Les Parlementaires Bourguignons à la fin du XVIIIe siècle*, p.307).

<sup>9</sup> Shennan, *The Parlement of Paris*, p.87-8.

<sup>10</sup> Cited in John Rogister, *Louis XV and the Parlement of Paris, 1737-1755* (Cambridge: Cambridge University Press, 1995), p.11.

The 'vérification' to which d'Argis refers was the parlements' practice of examining all legislation that was sent to it by the king for registration, in order to ensure that such acts did not contradict any existing laws. If the magistrates perceived such contrariety they would produce 'remontrances' addressed to the king before registering the law. Herein lay their real political influence, as occasionally (and then increasingly in the eighteenth century) the parlements' remonstrances would be made on policy grounds. An example of this is the refusal of the parlement of Paris to register the papal bull *Unigenitus* because of its opposition to the ultramontane doctrines expressed therein. The parlement could also produce 'représentations' which were not necessarily in response to any particular piece of legislation, but were a specific plea to the king to act on a certain matter or to desist from a certain policy, which it felt was having a detrimental effect on the public good. The choice to heed remonstrances or not lay ultimately with the monarch, but the increase in this form of opposition and the nature of the circumstances under which it was employed in the eighteenth century led Louis XV and Louis XVI to take advantage of an established royal ceremony, known as a *lit de justice*, in order to enforce the registration of legislation which the parlement opposed.

Louis XIV had adopted a new policy towards the parlements' right to remonstrate in February 1673, after war had been declared against the Dutch: in order to preclude any parliamentary opposition to wartime tax demands, he allowed remonstrances only after the registration of laws, with the effect that an already cowed parlement of Paris (in the aftermath of the Fronde) was virtually silenced throughout the long reign of the Sun King. The parlement of Paris regained a certain amount of influence on the death of this monarch, as the following day its members

named Philippe duc d'Orléans regent at a *lit de justice*, declaring Louis XIV's will null and void. The parlement of Paris had also named Marie de Medici and Anne of Austria as regents of France. Following the example of these seventeenth-century regents, Philippe invited the parlement to proffer advice and remonstrances before registration of his edicts, thus returning to the court its political influence in French public life.<sup>11</sup>

***'Sauf accident, il sera bon gentilhomme et robin consciencieux'***

'J'y étais' – Voltaire was there in the *grand'salle* on 2 September 1715, the day Philippe was named regent by the parlement of Paris. Or so he later claimed in his notes to the first chapter of the *Précis du siècle de Louis XV*.<sup>12</sup> And why would he not have been, for the *Palais de Justice* was very much a bustling public space at the centre of Parisian life. On that day the eyes of the public would have been even more firmly fixed on the *Palais* as all Parisians must have been interested in what this new *régime* had in store. Voltaire would certainly not have been out of place at the *Palais*, the home of the nobility of the robe, for his own family origins had dictated a path towards a legal career after his days at a prestigious Parisian school where noble families left the instruction of their scions to those great educators, the Jesuits.

Voltaire's father buried any Jansenist inclinations that he may have harboured and sent the young François Marie Arouet (who had not yet adopted his famous

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<sup>11</sup> *Recueil Général des Anciennes Lois Françaises*, ed. François-André Isambert, 29 vols (Paris: Belin Leprieux, 1822-33), xxi.5.

<sup>12</sup> *Précis du siècle de Louis XV*, ed. René Pomeau, in *Œuvres historiques* (Paris, 1978), p.1299.

alias) to the Jesuit *collège*, Louis-le-Grand.<sup>13</sup> Here, the best of young noble society experienced, along with education in the classics and worldly Jesuit catechism, the inculcation of a caste consciousness which would prepare its graduates' manners and their knowledge of their milieu for the positions of social importance that would be open to them in the stratified society of *ancien régime* France. Ambitious for his second son, who would disagree with the father's choice? Many graduates of Louis-le-Grand went on to become accomplished office holders, including both of the chancellors Maupeou and the D'Argensons, both ministers under Louis XV, not to mention the *contrôleurs généraux* Machault d'Arnouville, Maynon d'Inveau and Turgot. No doubt, Arouet *père* would not have expected such an illustrious fate for his son, but certainly would have wished him to take up a post in the administrative or judicial aristocracy, as his father and maternal grandfather had done.<sup>14</sup>

François Bluche noted that in 1761, 104 counsellors from 250 at the parlement in Paris were former students of Louis-le-Grand.<sup>15</sup> The strong attachment between these two institutions was due to the nature of the instruction received at the latter. Bluche explains:

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<sup>13</sup> Peter Gay, *Voltaire's Politics: the Poet as Realist* (New Jersey: Princeton University Press, 1959) p.37. Gay talks of the father's 'rigid Jansenism' which had to be suppressed because of paternal ambition, while Theodore Besterman (*Voltaire* (London: Longmans, 1969), p.31) speculates that the negative effect of an Oratorian education on his elder son prompted Arouet *père* to opt for a less fanatical Jesuit version.

<sup>14</sup> Besterman, *Voltaire*, p.19.

<sup>15</sup> François Bluche, *Les Magistrats du Parlement de Paris* (Besançon: Jacques and Demontrond, 1960) Bluche also provides the title of this section where he shows the normal trajectory of students of Louis-le-Grand and other such schools frequented by the nobility of the robe, who continued with legal studies after their education: 'Instruit dans un collège, habile à danser, à monter à cheval, à pratiquer l'escrime, formé éventuellement par un long voyage, préparé à sa tâche par les conférences juridiques et les bons avis de M. son père, le jeune magistrat est prêt à entrer en charge. *Sauf accident, il sera bon gentilhomme et robin consciencieux*' (my emphasis) (p.247).

Les humanités donnent aux futurs parlementaires le bagage de références antiques qui soutiendra leur vanité en étayant leurs prétentions: eux qui nomment Sénat le Parlement, patriciens les magistrats, “romains” les parlementaires courageux, trouvent, dès l’enfance, le climat favorable à leurs sentiments, en même temps que le style de leur futurs discours.<sup>16</sup>

In later life Voltaire was more cynical about this instruction: ‘Je savais du Latin et des sottises.’<sup>17</sup> He could not deny, however, the connections which his time at Louis-le-Grand had provided, connections on which he would rely continually in later life, whether as friends or as important contacts in times of controversy, something to which Voltaire was no stranger as an author under the *ancien régime*.

Like so many of his young colleagues, François Marie was sent to study law but it was not for him, a fact he admits through the third person of his pen: ‘ayant été envoyé aux écoles de droit par son père, trésorier de la chambre des comptes, il fut si choqué de la manière dont on enseignait la jurisprudence que cela seul le tourna entièrement du côté des belles-lettres.’<sup>18</sup> Literature, or more specifically poetry, was his calling. As a young *libertin* he shared verse and other earthly pleasures with the *débauchés* of his day.<sup>19</sup> But to write verse rather than read law was not a social *faux pas*. As a young adult, Arouet was no stranger to the *milieu parlementaire* for the *parlementaires* should not be regarded as a social caste but, rather, as part of an ever expanding nobility whose boundaries were blurring with increasing social mobility.

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<sup>16</sup> Bluche, *Les Magistrats du Parlement de Paris*, p.246.

<sup>17</sup> *Questions sur l'Encyclopédie*, M.xviii.471, article ‘Education’.

<sup>18</sup> *Mémoires pour servir à la vie de M. de Voltaire*, M.i.72.

<sup>19</sup> Gay, *Voltaire's Politics*, p.38.



There was still, however, a prototype. Bluche gives an account of the ‘parfait magistrat’ who combines ‘l’attachement au service public’, ‘L’amour de son état’, ‘grandeur d’âme’, ‘fermeté’ and ‘dignité’.<sup>20</sup> The young magistrate ‘préfère la poésie ou la philosophie à des tentations plus vulgaires. Il se détourne des plaisirs des sens et voit dans la culture “cette chaste et sévère volupté qui fortifie l’âme au lieu de l’affaiblir, et qui charme l’esprit sans corrompre le coeur.”’<sup>21</sup> This prescriptive ideal may have been descriptive of certain *zélés*, i.e. those of a Jansenist bent, but in general, the counsellors of the *parlement* enjoyed the pleasures of noble Parisian society including the ‘tentations plus vulgaires’, such as the theatre. For this reason many connections existed between the counsellors of the *parlement* and the literary names of the century: ‘President de Maisons was a friend of Voltaire, Lavive de Jully and Le Mercier de la Rivière friends of Diderot, the Abbé de Saint-Non a friend of Rousseau.’<sup>22</sup> It is important to stress that Voltaire was free to share the society of the *parlementaires* because he could so easily have been one of them.

Voltaire related to the robe as an equal. He relied on them as the consumers of his literary and theatrical productions, just as they relied on him, and people like him, for the cultural capital that a knowledge of the literary scene bestowed on its possessor in an emerging public sphere where the possession of a literary sensibility was an increasingly important attribute. As I have said, he relied on some as friends, such as Charles Augustin de Feriol, comte D’Argental, a *conseiller* at Paris and

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<sup>20</sup> These are according to the *mercuriales* given by the *procureur général* D’Aguesseau. *Mercuriales*, a report on the performance of the *parlement* throughout the year, were usually given on the return from the *parlement*’s Easter vacation by the *procureur général*. Cited in Bluche *Les Magistrats du parlement de Paris*, p.259-60.

<sup>21</sup> Bluche *Les Magistrats du parlement de Paris*, p.261.

<sup>22</sup> Shennan, *The Parlement of Paris*, p.127.

Pierre Robert Le Cornier de Cideville, a *conseiller* at the Rouen parlement, both regular correspondents of Voltaire and close to him since their days together at Louis-le-Grand. Others he could rely on at times of grave need. For example, in his attempt to ensure Desfontaines's punishment for his libellous *Voltaireomanie*, Voltaire has faith in his *parlementaire* contacts: 'Le tribunal de m. Heraut m'est plus avantageux que celui du Chastelet [...parce] que mrs d'Aguessau, mr de Maurepas, mr Dargenson, mr de Mainieres,<sup>23</sup> bauffrère de mr Heraut, me protégeant ouvertement, m. le cardinal désirant surtout la punition de Desfontaines et en ayant parlé à mr Heraut, se seroit me manquer à moy même de ne pas profiter de tant de circonstances heureuses.'<sup>24</sup> Contacts and good Latin were not all his education had provided. René Pomeau puts Voltaire's social skills down to the urbane Jesuit influence which allowed him to 's'insinuer auprès des puissants, savoir parler aux grands, et aussi bien se mettre au niveau de chacun avec politesse et grâce.'<sup>25</sup> So, whether discussing Rabelais with the Regent at the *bal de l'Opéra*, or literary works with the ageing *débauchés* of the Temple, Arouet could cut a charming and witty figure, attributes greatly valued in a Court and *salon* society, still grounded on ancient notions of privilege.

Voltaire shared the friends, the interests and the manners - in a word, the society - of the *noblesse de robe*. To a certain extent, he could not have escaped the

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<sup>23</sup> Durey de Mesnières, a *président* of the second chamber of *Enquêtes*.

<sup>24</sup> D1901, Voltaire to Bonaventure Moussinet (22 February 1739). Pierre François Guyot Desfontaines, who as a staunch supporter of the *Anciens*, wrote his acerbic critique of Voltaire and his works in response to the philosophe's *Le Prémotif* (1738), which had attacked the errors of Desfontaines's periodical, *Les Observations sur quelques écrits modernes*. The *Châtelet* was the Parisian equivalent of the provincial *baillages*.

<sup>25</sup> René Pomeau *et al*, *VST*, vol.1, *D'Arouet à Voltaire* (Oxford: VF, 1985) p.54.

inculcation of the robe's political mindset. If the magistrates of the parlements of France could be said to have promoted a particular policy in public affairs, or defined themselves politically before the mid-century – and the magistrates' belief that their court formed an essential part of the 'constitution' of the French monarchy since the sixteenth century suggested that they did<sup>26</sup> - then their adherence to the liberties of the Gallican church must be seen as the best example of such a political positioning. In 1682, the general assembly of the French church declared four articles, the first of which asserted the king's independence from Rome in the temporal administration of the kingdom.<sup>27</sup> The defence of these principles could potentially result in a conflict between the crown and the courts if the king, for whatever reason, needed to make concessions to Rome. The court's so-called 'Gallicanism' was a convenient conduit for the expression of a notion of parliamentary constitutionalism which manifested itself especially during the Fronde, and later, in the early eighteenth century, in the defence of French Jansenists. Some have seen the revolutionary potential of this union of Gallicanism, Jansenism and constitutionalism in the parlements' opposition to absolute royal and ecclesiastical authority later in the eighteenth century.<sup>28</sup>

Voltaire's *Histoire du parlement de Paris* (1769) would attempt to totally discredit the constitutional pretensions of France's most prestigious court. The young Arouet

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<sup>26</sup> The emergence of parliamentary 'constitutionalism' in the sixteenth century is examined in Paul Rice Doolin, *The Fronde* (Cambridge, Mass.: Harvard University Press, 1935).

<sup>27</sup> Marion, *Dictionnaire des Institutions*, article 'Libertés de l'Eglise Gallicane': 'Les rois ne sont soumis à aucune puissance ecclésiastiques dans l'ordre des choses temporelles; Dieu n'a donné à saint Pierre et à ses successeurs et à l'Eglise elle-même de pouvoir que sur les choses spirituelles et concernant le salut, non sur les choses civiles et temporelles; en conséquence les rois ne peuvent être déposés par l'autorité des chefs de l'Eglise, ni leurs sujets déliés de leur serment de fidélité et obéissance.'

<sup>28</sup> See, for example, Dale Van Kley, *The Damiens Affair and the unraveling of the Ancien Régime* (New Jersey: Princeton University Press, 1984) and Catherine Maire, *De la cause de Dieu à la cause de la Nation. Le jansénisme au XVIII<sup>e</sup> siècle* (Paris: Gallimard, 1998).



was, however, less critical and his early masterpiece, *La Henriade*, shows clearly the traces of his milieu.

### ***Early reactions to the Magistrates***

It is accepted that Voltaire began an epic poem - entitled *La Ligue* and dealing with the life of Henri IV and the Catholic League's attempt to prevent his accession - in 1716, before his first period of incarceration in the Bastille.<sup>29</sup> His Gallican sympathies are evident in his demonisation of Rome:

Au fond du Vatican régnait la Politique,  
Fille de l'Intérêt et de l'Ambition,  
Dont naquirent la Fraude et la Séduction. (canto iv, 224-26)

The reign of this evil has ended, however, thanks to the parlement, to which Voltaire refers in terms gleaned from his days at Louis-le-Grand: 'Le Sénat de la France/ Eteint presque en mes mains les foudres que je lance' (iv.251). Full of virtue, as a supporter of the Gallican church and partisan of truth, the parlement reveals the true nature of La Politique:

Plein d'amour pour l'Eglise, et pour moi plein d'honneur,  
Il ôte aux nations le bandeau de l'erreur.  
C'est lui qui, le premier, démasquant mon visage,  
Vengea la vérité dont j'empruntais l'image. (iv.253-56)

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<sup>29</sup> *La Henriade*, ed. Owen Reece Taylor, in *OCV*, vol.2 (Oxford: VF, 1970), p.17.

To line 251 ('Le Sénat de la France') Voltaire adds a footnote showing without question his loyalty to the Gallican doctrine. He notes the parlement's 'remonstrances célèbres' and its 'fermeté constante à soutenir *nos libertés* contre les prétentions de la cour de Rome' (my emphasis). Voltaire lauds the virtues of the parlement, referring to it as a 'sénat vénérable' (iv.399) and allows it attributes which he would later dismiss as political pretensions. At this early stage in Voltaire's career, the parlement seems, in his verse, to represent an intermediary body that represents the people:

Qui, des lois de son prince et l'organe de l'appui,  
Marchait d'un pas égal entre son peuple et lui,  
Dans l'équité des rois sa juste confiance  
Souvent porte à leurs pieds les plaintes de la France. (iv.401-04)

The sentiments of his footnote to line 251 come to verse here to show again his Gallican mettle: the parlement, 'pour nos libertés toujours prompt à s'armer,/ Connaît Rome, l'honore, et la sait réprimer' (iv.409-10). The commendations continue, going beyond the call of Gallican duty: 'l'auguste assemblée/ Par qui des citoyens la fortune est réglée' (iv.415-16). From dealing with the body as a whole, Voltaire moves on to praise individual magistrates. This part of the canto deals in particular with the incidents surrounding the parlement's conflict with the Catholic League during the reign of Henri III. Following the assassination of the League's leader, the Duc de Guise, his supporters who then controlled Paris attempted to root out any *parlementaire* opposition. (The parlement had stated its support for the existing law of succession in 1586, which would have seen Henri of Navarre succeed Henri III.)

A member of the *Seize*<sup>30</sup> and governor of the Bastille, Bussy le Clerc, entered the parlement on 16 January 1589 in order to force the magistrates to accept the League's request that they no longer recognise the sovereign authority of the royal household. On their refusal, the First President Harlay, whom Voltaire describes as a 'noble guide', was arrested. Near him were 'les chefs de la justice/ Brûlant de partager l'honneur de son supplice' (iv.443-44). Thou, Molé, Scarron, Bayeul, Potier and Longueil are all deemed worthy of mention as these magistrates, while not placed under arrest, followed Harlay into prison as a show of loyalty. All those who opposed the order were arrested leaving a rump parlement, part of whose members eventually reneged on their initial acceptance of it. Among whom were the 'honorable victimes', the magistrates Brisson, Larcher and Tardiff, who were executed summarily on the orders of the *Seize*: 'Vos noms toujours fameux vivront dans la mémoire.' In canto six Voltaire describes the scene of the meeting of the peers to choose a successor to Henri III. Voltaire sees that the peers are misled: 'Et croit avoir acquis par un assassinat/ Le droit d'élire un maître et de changer l'Etat' (vi.13-14). On to the assembly of these 'états tyranniques' Voltaire juxtaposes the image of the 'sages députés' of the parlement who, in their absence due to their sacrifice, were unable to defend the people's liberties.

Are his references to the parlement in the epic poem *La Henriade* merely hyperbole? Are his attitudes the hangover of views unquestioningly consumed as a teenager, under the influence of family, friends and the milieu of Louis-le-Grand?

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<sup>30</sup>The *Seize* were a more violent and radical element of the League, so called because of the sixteen Parisian quarters they controlled.

Are these the first notions he cast off as soon as he was old and wise enough to see them for what they were? In O.R. Taylor's critical edition of *La Henriade*, it is suggested that the poem was inspired by contemporary events. The rivalry between the Regent, Philip V of Spain and the controversy surrounding *Unigenitus* 'rappelaient aux contemporains non seulement la Fronde mais aussi les jours tragiques des guerres de religion.'<sup>31</sup> The activities of the duchesse Du Maine, the suppression of the *Conseils de la Régence* and the Cellamare conspiracy are all cited as contributing to the development of Voltaire's faith in the notion of strong central government, which Philippe's rule represented. *La Henriade* is seen as both personal and political propaganda for the regent and his regime.<sup>32</sup> But how, one may wonder, can a panegyric to the Regent be concurrently in praise of institutions with which he was to have a certain amount of conflict?

As a young graduate of Louis-le-Grand, Arouet's view of the parlement would have been the idealised version presented to him at school. If Voltaire was a young Gallican it was only because that was his place in society, of a low robe family. However, when we look at his *Correspondence* we see that his reactions to the major political issues of the day, the conflict over *Unigenitus* and John Law's monetary *système*, were far from those of the *parlementaires*. We know that, like many of his young *parlementaire* friends, Voltaire was present in the *grand'salle* the day that Philippe of Orleans was proclaimed Regent of France. No doubt he, like the magistrates, welcomed Philippe's invitation to provide advice and remonstrances. As

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<sup>31</sup> *La Henriade*, p.24.

<sup>32</sup> *La Henriade*, p.26.

the days of the regency passed by, the parlement's advice and remonstrances became less welcome, particularly when they targeted the bull *Unigenitus* and John Law. Law's monetary *système*, which had established a state bank and introduced paper money into France for a period, was widely mistrusted<sup>33</sup> but the parlement's opposition to it was irreconcilable: 'Il [Law] était l'ennemi des rentes constituées, qui formaient un des éléments de base de la fortune des parlementaires parisiens.'<sup>34</sup> Voltaire's correspondence shows his scepticism with regard to the new form of money, but at the same time a certain amount of indifference (luckily for him, he had not embraced the system like many other Parisians): he informs Lefèvre de la Faluère that he is enjoying a tranquil life away from Paris,

Sans aucun regret pour la ville,  
Où certain écossais malin,  
Comme le vieille sybille  
Dont parle le bon Virgile,  
Sur des feuillets volants écrit notre destin.<sup>35</sup>

With hindsight, he is better informed. In spite of the believable accusations that Law

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<sup>33</sup> Shennan, *The Parlement of Paris*, p.287. If not mistrust, then severe scepticism is evident in the journal of the lawyer Barbier, an informed commentator on public life in eighteenth-century Paris. His entry for April 1718 speaks of how Law, a Scotsman, 'a gagné d'abord considérablement au jeu, et n'avait point d'autre emploi que de jouer. Il s'est insinué auprès de M. le duc d'Orléans, régent, à qui il a fait goûter la science qu'il avait pour compter mieux qu'un autre' (Barbier, *Journal*, i.5).

<sup>34</sup> Jean Egret, *Louis XV et l'opposition parlementaire 1715-1774* (Paris: Armand Colin, 1970) p.34. *Rentes* were one of the main sources of funds for the monarchy. They were essentially loans taken by the monarchy from individuals and paid back at regular (or less than regular) intervals. While many of the Parisian magistrates may well have been *rentiers*, and therefore badly affected by the economic crisis that followed the collapse of Law's system, many of the provincial *parlementaires* objected to increased taxes which they saw as refunding the loans made by wealthy financiers, rich on the back of their loans to the crown.

<sup>35</sup> D84, Voltaire to Nicholas Anne Lefèvre de la Faluère, ([July 1719]).

directed the country's wealth into the Regent's hand, to their credit, both died in debt.<sup>36</sup>

Many histories have described the vicissitudes of the conflict between the crown and the parlement over the papal bull *Unigenitus dei filius*<sup>37</sup> and it could not be the object of this thesis to add anything to these comprehensive studies. The politics of the parlement were characterised by opposition to *Unigenitus* on the grounds of the Gallican liberties, as declared in 1682. This papal bull, published in 1713 and designed to condemn 101 Jansenist and Gallican propositions extracted from the *Réflexions morales* of Père Pasquier Quesnel, was anathema to many magistrates for whom, whether because of a sincere spiritual attachment to the crypto-Calvinist teachings of Jansenius,<sup>38</sup> or the implicit attack on the king's temporal jurisdiction, it took a scythe swipe at their religious and political beliefs, respectively.<sup>39</sup> The conflicts over the bull dominated public affairs and set the tone for the confrontation between the king and his courts over several decades of the

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<sup>36</sup> D1574, Voltaire to Frederick (August 1738). Indeed, the principle of Law's system, i.e. that the means of exchange did not have to be tied to precious metals, was one that Voltaire eventually embraced and later espoused. See *Fragments sur l'Inde et sur le Général Lally* (1773), article 1: 'A l'égard de l'or et de l'argent du Pérou et du Mexique, le public n'y gagna rien; puisqu'il est absolument égal de se procurer les mêmes nécessités avec cent marcs, ou avec un marc. Il serait même très avantageux au genre humain d'avoir peu de métaux qui servent de gages d'échange, parce qu'alors le commerce est bien plus facile: cette vérité est démontrée en rigueur' (M.xxix.223).

<sup>37</sup> Egret, *Louis XV et l'opposition parlementaire*; Maire, *De la cause de Dieu à la cause de la Nation*; Rogister, *Louis XV and the Parlement of Paris*; Julian Swann, *Politics and the Parlement of Paris under Louis XV, 1754-1774* (Cambridge: Cambridge University Press, 1995); Dale Van Kley, *The Religious Origins of the French Revolution* (New Haven and London: Yale University Press, 1996).

<sup>38</sup> Cornelis Jansen (1585-1638), known as Jansenius, was a Dutch theologian who defended Augustinian theology on free will, grace and predestination in his posthumous work *Augustinus* (1640) which ignited the controversy over Jansenism.

<sup>39</sup> According to the lawyer, Barbier (*Journal*, ii.115-6), the most controversial assertion of *Unigenitus* was the refutation of the ninety-first proposition. This stated that the fear of an unjust excommunication should not prevent the faithful from adhering to their religious duty. In essence, this gave the Pope the right, in theory at least, to excommunicate the king of France and, in so doing, free French subjects from their oath of allegiance, a notion which flew in the face of the Gallican liberties.



eighteenth century, roughly, from the start of the regency (1715) until the expulsion of the Jesuits from France (1764). For this reason it is interesting to note how seldom Voltaire mentions *Unigenitus* in his correspondence at a time when it caused such extreme controversy. When he does mention the bull, it is with distance, as in this letter to Frederick, crown prince of Prussia, in 1737 where he describes how Louis XIV 'a passé les dernières années de sa vie dans de misérables disputes au sujet d'une bulle ridicule pour laquelle il s'intéressait sans savoir pourquoi'.<sup>40</sup> Later, in a letter to Thieriot he states that he would disinherit his niece 'si elle prend un homme qui sache seulement ce que c'est que la constitution'.<sup>41</sup> His indifference towards the bull, or at worst ridiculing of it, was not the result of any parliamentary Gallicanism in his political outlook, but rather a general anti-clericalism.

*Unigenitus* caused even greater problems after the end of the Regency. As a member of the *Conseil de Conscience* since 1720, Cardinal Fleury was devoted to the extirpation of Jansenism.<sup>42</sup> Even with the Jansenist Cardinal de Noailles at the head of this religious council, a *corps de doctrine* condemning appeals against *Unigenitus* and forbidding all to speak against the bull was agreed by the vast majority of the French episcopacy. In spite of the parlement's opposition to the *corps de doctrine* it was eventually registered by the court with the result that during the last few years of the Regency there was relative peace surrounding the bull.<sup>43</sup> This

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<sup>40</sup> D1307, Voltaire to Frederick, ([c.30 March 1737]).

<sup>41</sup> D1469, Voltaire to Thieriot (8 March 1738). *Unigenitus* was referred to as 'La Constitution'.

<sup>42</sup> The *Conseil de Conscience* was the religious department of the Regent's conciliar system of government which became known as the *polysynodie*.

<sup>43</sup> It should be noted, however, that the parlement acquiesced in the Regent's demands under duress. At the time of the king's approval of the *corps de doctrine* (4 August 1720) the parlement was in exile in Pontoise because of its opposition to certain financial measures, most notably Law's monetary system. The Regent's intention to rely on the rival jurisdiction of the *Grand Conseil* (23 September

would change with Fleury's accession to power as chief minister at the end of the Regency: 'Avec lui, la défense de la Bulle devient une affaire d'Etat.'<sup>44</sup> Fleury's *déclaration* of 24 March 1730, which stated that *Unigenitus*, as a law of the Church, must also be regarded as a law of the Kingdom, could only vex the Gallican magistrates. The drama that was played out over the following months between parlement and government, ending with the suspension of the *déclaration* in 1732, appears in Voltaire's correspondence only through flippant references. Indeed, his interest in parliamentary affairs in general – *Unigenitus* was capital amongst them – does not come across as being very developed.

Voltaire's first mention of the parlement in his correspondence is in 1725, in a letter to the marquise de Bernières.<sup>45</sup> After noting that the King and Queen have requested his 'poème de Henri quatre', Voltaire modestly states 'J'aime mieux que sa majesté soit ennuyée par le parlement et par la chambre des comptes que par moi.' Mentioned in almost the same breath as *La Henriade*, where the parlement was 'le Sénat de la France', the august assembly is now presented as a wearisome annoyance for the monarchy. In his many letters to Jean Baptiste Formont and Cideville – usually relating to his works – he occasionally mentions the parlement and usually qualifies his comments with an expression of his lack of interest. In September 1731, Voltaire, writing to Cideville, mocks the striking *avocats* and encourages his correspondent, a counsellor at the Rouen parlement and himself a minor poet, to

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1720) to register this act of the *Conseil de Conscience* upon the parlement's refusal, aroused jurisdictional jealousies in the magistrates who eventually ceased their protest under threat of a further exile from Pontoise to Blois.

<sup>44</sup> Egret, *Louis XV et l'opposition parlementaire*, p.25.

<sup>45</sup> D249, Voltaire to marquise de Bernières, (September [1725]).



concentrate on his poetic work. He continues: ‘Toutes ces tracasseries ne m’intéressent guères; je ne me mêle plus que de ce qui se fait à Argos [the place in which his new work *Eriphyle* is set].’<sup>46</sup> He is still consumed by his new work *Eriphyle* later that month in a letter to Formont. Here, he refers almost jokingly to the conflict over *Unigenitus*: ‘Eh bien, mon cher Formont! au milieu des tracasseries du roi et du parlement, [...] des molinistes et des jansénistes, aimez vous toujours *Eriphyle*?’<sup>47</sup> Voltaire’s only interest at this time seems to be his work. Besterman has described the period as ‘very active, yet externally uneventful.’<sup>48</sup> His letters speak mainly of his work. Of the parlement, his comments are infrequent and vague. He seems not to care and tells Formont honestly, ‘Pour des nouvelles du parlement *ea cura quietum non me sollicitat*. Je ne connais et je ne veux de ma vie connaître que les belles lettres’.<sup>49</sup> In two letters to Cideville in 1732, Voltaire refers to the problems of the parlement using a theatrical metaphor (everything is *belles lettres* to him!).<sup>50</sup> Even his mentioning of the parlement of Paris seems to be for Cideville’s benefit as he distances himself from the affair: ‘Ce n’est pas que l’intrigue ne puisse recommencer, mais je ne me mêle pas de ces farces là’ (D536). While clearly aware of the conflicts that are taking place and of the possibility that there could be important news relating to them, Voltaire seems actively un-interested.

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<sup>46</sup> D428, Voltaire to Cideville, (3 September 1731).

<sup>47</sup> D430, Voltaire to Jean Baptiste Nicolas Formont, ([c.15 September 1731]). Jesuits were also referred to as Molinists, after the Spanish Jesuit Luis de Molina (1535-1600) who taught a doctrine that tried to reconcile the efficacy of divine grace with human free will.

<sup>48</sup> Besterman, *Voltaire*, p.163.

<sup>49</sup> D494, (29 May 1732).

<sup>50</sup> D503 (c.10 July 1732): ‘Vous savez que le parlement de Paris vient de finir sa comédie et de reprendre ses séances’; D536 ([15 November 1732]).

John Rogister has noted that the magistrate was a stock literary character in eighteenth-century France: 'Severe in manner, austere in his obligatory black clothes, pompous, haughty, generally humourless'.<sup>51</sup> While Voltaire's correspondence is silent on his views of specific magistrates at this time, his literary work does reveal a less than favourable impression of 'the magistrate'. *Le Temple du Goût*, published in 1733 is an attack on bad taste which Voltaire saw as dominating the arts at the time. In this work, few escape the jabs of his nib. In his criticism of those who affected good taste by preferring music sung in Italian over French singing, the character who gives a laughable concert is 'un homme de robe [...] fou de la musique italienne, qu'il ne connaissait que par de mauvais airs inconnus à Rome, et estropiés en France par quelques filles de l'Opéra.'<sup>52</sup> One could assume that this is an example of the stock character of the magistrate being subjected to ridicule. It is interesting to note, however, that in its first edition (1733) the subject was not specified: 'C'était un concert que l'on donnait dans une maison de campagne'.<sup>53</sup> His specifying 'un homme de robe' in a later edition could be seen as a deliberate choosing of a stock character in order to increase the comic potential of the scene.<sup>54</sup>

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<sup>51</sup> John Rogister, *Louis XV and the Parlement of Paris*, p.9. Examples of the literary presentation of the magistrate can be seen, for example, in Lesage's *Turcaret, ou le financier* (1709) and in Destouche's *Le Dissipateur* where the non-appearing magistrate is referred to in these terms: 'ce gros Magistrat débauché,/ Qui porte en un beau corps un esprit ébauché,/ Du Cuisinier français fait son unique livre,/ Et de vin de Langon dès le matin s'enivre;/ Parasite effronté, menteur comme un laquais,/ Vivant toujours d'emprunt, et ne payant jamais' (II.1).

<sup>52</sup> *Le Temple de Goût*, ed. Owen Reece Taylor, in *OCV* (Oxford: VF, 1999), vol.9, p.129.

<sup>53</sup> *Le Temple du Goût*, p.129.

<sup>54</sup> The 1739 edition (W38 according to Taylor's critical edition, *Le Temple du Goût*, p.104) published in Amsterdam as part of the *Œuvres de M. de Voltaire* (Ledet [or] Desbordes, 1738-1756) saw Voltaire revise the poem to a great extent. The change first occurs in this edition.

Voltaire's comedy, *L'Enfant prodigue*, enjoyed success and generally high audience figures when staged in 1736-37 and here, without doubt, Voltaire uses the magistrate as a stock character. Fierenfat is a magistrate who is to marry Lise, the daughter of Rondon. His comic purpose is clear as the magistrate's character is pedantic, cruel and self-absorbed. When the magistrate becomes *président* early in the play, he affects a pompous air to fulfil his charge:

Mais dès qu'il fut Monsieur le Président,  
Il fut, ma foi, gonflé d'impertinence:  
Sa gravité marche et parle en cadence (I.1.54-56)

Evidence of the necessity of this stock character for comic purposes is clear in Voltaire's annoyance at the fact that the censor, Crébillon *père*, required him to change Fierenfat from a *président* to a *sénéchal*, a provincial magistrate of a lower jurisdiction.<sup>55</sup> John Dunkley and Russell Goulbourne, editors of the critical edition of *L'Enfant prodigue*, express doubts about some interpretations of the play, such as that of D.B. Kummrich, who, they believe, 'reaches his conclusions by lifting passages from the text and citing them as the "message"'. They do agree, however, that a broader message does emerge, that of the satire of an egotistical *président*.<sup>56</sup> For this and other reasons the parlement of Paris banned performances of *L'Enfant prodigue*. Dunkley and Goulbourne cite with approval Léon Fontaine who suggested

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<sup>55</sup> D1214, Voltaire to D'Argental (1 December [1736]): 'Je demande toujours un passeport pour monsieur le *président*, car mr le *sénéchal*, me paroît si provincial et si anticaille que je ne peux m'y faire.'

<sup>56</sup> *L'Enfant prodigue*, ed. John Dunkley and Russell Goulbourne, in *OCV*, vol.16 (Oxford: VF, 2003), p.42.

that Voltaire chose his comic target because of his dislike for the parlements: 'Il ne pouvait leur pardonner la proscription des œuvres philosophiques ni certaines sentences injustes qu'il fit casser par l'opinion.'<sup>57</sup> Such an assessment is typical of general statements made about Voltaire's view of the courts. His view, as expressed at its most negative in certain letters and writings of the 1760s and 1770s, is projected back upon the previous decades. The point from which Voltaire's relations with the parlements are always viewed is invariably located in the aftermath of the cases against Jean Calas and the chevalier de La Barre when Voltaire was undoubtedly at his most frustrated with the courts. But how can Fontaine claim that in 1736 the injustices against Calas and La Barre had any bearing on Voltaire's opinion of the judges? The reality is that at this relatively early stage in Voltaire's career, the magistrate was simply a stock character, ridiculous because vain and supercilious.

Similarly, in the seventh and final part of the *Discours en vers sur l'homme*, the image of the magistrate appears. Voltaire here questions the nature of virtue. In doing so, he searches in those places where one would expect to find it. Religion provides no answer: 'Le ciel puisse bénir sa piété profonde! /Mais quel en est le fruit? Quel bien fait-il au monde?'<sup>58</sup> Virtue should be at the heart of the magistracy. Again, it is lacking. The magistrate does nothing other than 'fai[re] justice' and 'rendre service'. The first image is that of the stock character: 'Ce magistrat, dit-on, est sévère, inflexible'. Voltaire then goes beyond these superficial criticisms. The magistrate will never be virtuous because he does not seek out justice. He remains

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<sup>57</sup> Léon Fontaine, *Le Théâtre et la philosophie au XVIIIe siècle* (Versailles: Cerf et fils, 1878), p.208.

inert, judging 'par zèle et par devoir'. The magistrate lacks virtue because he does not use his power to improve the lot of 'l'honnête homme obscur qui se tait devant lui'. This inchoate criticism of the dispensers of the king's justice is at some remove from the youthful admiration expressed in *La Henriade*.

### ***Voltaire and the Magistrates as Censors***

While Voltaire's indifference to the court's political activities in the public sphere seems to be the dominant feature of his reaction to them before the personal reign of Louis XV begins, as a writer in a society where freedom of expression was severely curtailed, he would encounter the parlement in its role as a censoring authority. Throughout the sixteenth, seventeenth and early eighteenth centuries the magistrates of the parlement of Paris had played a central role in the censorship of works on every subject, including religious texts, which were examined by a counsellor of the parlement and a theologian. While the *Code de la librairie*, introduced by chancellor d'Aguesseau in 1723, standardised the regulation of the book trade and reduced parliamentary control over censorship, the court's multifaceted function of *police* ensured its continued influence in this domain. In general, before any work could be published it had to be authorised by a royal censor, an unpaid official named by the chancellor or Keeper of the Seals on the proposition of a magistrate. Only then could it pass to the holder of the Great Seals who would grant it the permission necessary for official publication by means of

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<sup>58</sup> *Discours en vers sur l'homme*, ed. H.T. Mason, in Voltaire *OCV*, vol.17 (Oxford: VF, 1991), p.524.

sealed letters, safe in the knowledge that the work was sufficiently innocuous. Works were generally denied publication for three main reasons: for being contrary to religion, royal authority, or good morals. Between those books that were blatantly heterodox and those that received an *approbation officielle* lay a vast quantity of others which were tacitly tolerated. Books enjoying this *permission tacite* did not receive the Great Seal but were placed on a register deposited with the *lieutenant de police*, whose functions also included the granting of permission to shorter works and pamphlets. Even if permission had been granted to a work, the Church or the parlement of Paris could denounce it and demand its confiscation. P.M. Conlon's assertion that the parlement 'was under the predominant influence of its leader, Joly de Fleury, one of Voltaire's most bitter enemies' seems to imply a direct and calculated targeting of the author by the court, but in reality, as a censoring authority, the parlement targeted particular subject-matter rather than individuals.<sup>59</sup> Moreover, Barbara de Negroni has shown the extent to which the various authorities' interventions were often prompted by less pious motives. She notes how behind official claims 'qui invoquent toujours l'amour de la religion, l'intérêt de l'Etat, le souci du bien public, se cachent des formes de pression et le désir des différentes autorités politiques et religieuses de jouer un rôle dans l'examen préalable des

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<sup>59</sup> Pierre M. Conlon, 'Voltaire's literary career from 1728-1750', *SVEC* 14 (1961), p.35. This is another example of the imposing of knowledge of Voltaire's reactions to the court later in his life on his earlier experiences. Conlon was perhaps confusing Guillaume-François Joly de Fleury (who as *procureur général* pursued the *Lettres philosophiques*) and his son Jean Omer Joly de Fleury, *avocat général* and *président à mortier*, who would not become Voltaire's *bête noire* until his condemnation of the *Encyclopédie* in parlement in 1759.



manuscripts, et de retrouver l'influence qu'elles ont pu exercer les siècles précédents.'<sup>60</sup> For the parlement to condemn a work it had first to be denounced by a court, whether a parlement or a subaltern tribunal. If the parlement of Paris wished to take a complaint about a specific work seriously – the complaint could be made by a member of the public, a minister, a clergyman - the *gens du roi* would examine it before deciding if it merited an exemplary denunciation in parlement. I use the word 'exemplary' as, often, in spite of the court's tough and pious posturing, which could amount to a threat to pursue in justice the author or printer of a work, a public denunciation could well be orchestrated for ulterior motives. Negroni reminds us 'qu'il faut se garder de l'illusion de juger les condamnations spectaculaires de livres en termes d'efficacité: les magistrats savent parfaitement que leurs arrêts contre les livres n'en entravent pas réellement la diffusion; s'ils s'intéressent tant à la censure, c'est parce qu'elle leur permet de jouer un rôle sur la scène politique'.<sup>61</sup>

I mentioned above L. Fontaine's explanation of the reasons for targeting a magistrate in *L'Enfant prodigue*, showing that a reliance on Voltaire's subsequent outrage at parliamentary injustice was totally invalid. The other explanation given by Fontaine seems more reasonable – 'Il ne pouvait leur pardonner la proscription des œuvres philosophiques' – but a brief examination of the censorship of Voltaire's works during this period will show it to be, at best, tenuous. In an interesting recent

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<sup>60</sup> Barbara de Negroni, *Lectures interdites: Le travail des censeurs au XVIIIe siècle, 1723-1774* (Paris: A. Michel, 1995), p.59.

<sup>61</sup> Negroni, *Lectures interdites*, p.92.

conference paper reassessing Voltaire's views on censorship, Nicholas Cronk makes the valid point that:

For us, censorship is a form of oppression which makes the writer impotent. To begin with, this is not true for the eighteenth-century Republic of Letters, which broadly held the view that some form of control was a necessary civilising influence. Secondly, for writers of the Ancien Régime there is not one censorship but several (the government, the parlements, the church), and this very multiplicity of (competing) authorities goes some way to relativising and limiting the influence of any single one.

Cronk expresses the view that Voltaire actually thrived on the often contradictory nature of *ancien régime* censorship: 'Voltaire does not merely develop coping mechanisms, like other writers, to avoid the censor. He uses censorship positively as a means of establishing for himself opportunities for creative expression.'<sup>62</sup> But before examining the specific instances of censorship which were imposed on Voltaire's works, a comparison of the condemnations of Voltaire's works by the various authorities should prove the tenuous nature of Fontaine's claim. Confining ourselves first to the period before 1750, it is worth noting that only two of Voltaire's works were officially forbidden, and only one of these by *arrêt du parlement*.<sup>63</sup> After this period the interdictions multiplied and to enumerate each one is not relevant at this juncture. However, a comparison of the various censorship authorities'

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<sup>62</sup> Nicholas Cronk, 'Voltaire and the benefits of censorship: the example of the *Lettres Philosophiques*', Conference paper delivered at *Oxford-Princeton Partnership Conference: The History of Censorship*, 26-27 September 2003, Princeton University. Available online at <[http://web.princeton.edu/sites/english/csbm/papers/censorship/cronk\\_paper.doc](http://web.princeton.edu/sites/english/csbm/papers/censorship/cronk_paper.doc)>

<sup>63</sup> The *Lettres philosophiques* were forbidden by *arrêt du parlement* on 10 June 1734 and by the *Conseil d'Etat* on 23 October 1734. On 4 December 1739 Voltaire's *Recueil des pièces fugitives en prose et en vers* was suppressed by *arrêt du conseil*.



proscriptions gives us an idea of which one represented Voltaire's real nemesis. From 1750 until his death, the Assembly of Clergy denounced three of his works (all three on 22 August 1765); five *arrêts du parlement* were voted against his works (and some of these were multiple denunciations, occasions on which Voltaire's work was thrown to the flames with others). The parlement did not have the power to seize works but this act seems to have been the one preferred by the royal authority which seized seven of his titles, including *L'Homme aux quarante écus* in 1768, fifteen days before it was condemned by the parlement of Paris. If condemnations are anything to go by, then the Papacy was most concerned about the influence of Voltaire's works, placing twenty-nine of them on the Index during his lifetime (and one after his death). Of this total, only five were also condemned by the parlement.<sup>64</sup>

Bare statistics are only useful up to a point. What is more interesting and evident from Voltaire's dealings with the censorship authorities during this period is the manner in which he plays one off against the other, deciding at times to apply for a *permission* and at others to publish clandestinely, occasionally communicating directly with the royal censor and coming to agreements that would seem to contradict the censor's very purpose. The *Histoire de Charles XII* (1731) was submitted to a royal censor for approval with the result that the first volume received the necessary approbation while the second did not, as in the latter the Elector of Saxony was not treated with the respect he deserved. Not content to accept the censor's decision or make the necessary changes, Voltaire decided to have his work

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<sup>64</sup> These totals have been gleaned from the extensive, though not necessarily exhaustive, lists available in Negroni, *Lectures interdites*, Appendix II; Françoise Weil, *Livres interdits, livres persécutés, 1720-*

printed at Rouen, where the production of clandestine editions was favoured by the town's distance from Paris. Contrary to the belief that the parlements were peopled with hidebound conservatives, Voltaire explained his publication plan to Cideville on 30 January 1731: 'Il y a deux manières de s'y prendre pour faire imprimer cette histoire: la première, c'est d'en montrer un exemplaire à mr le premier président [Camus de Pontcarré (1698-1767)], qui donnerait une permission tacite; la seconde, d'avoir un de ces imprimeurs qui font tout sans permission.'<sup>65</sup> The relaxed attitude of the censorship authorities is also evident in the publication of the play *Zaïre*, which had been first performed on 13 August 1732 at the *Comédie Française*. The *épître dédicatoire* to Sir Everard Fawkner mentioned Mlle Adrienne Lecouvreur, a famous actress whose body had suffered the fate of those who choose that career, deemed impious by the religious authorities.<sup>66</sup> The royal censor appointed to examine the work had approved the *épître*, but the head of the *librairie*, Antoine Louis de Rouillé, anticipated problems.<sup>67</sup> The agreement that was reached between the author and de Rouillé may seem strange but is a good warning to us not to make generalisations about *la censure*: two editions were published, the first without *épître* and with permission, the second, with *épître* and without permission. Conlon's assertion that Joly de Fleury was 'one of Voltaire's most bitter enemies' was possibly gleaned from

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1770 (Oxford: VF, 1999) p.123-131; *Dictionnaire général de Voltaire*, ed. Raymond Trousson et Jerom Vercruysse (Paris: Honoré Champion, 2003), article 'Censure'.

<sup>65</sup> D397, Voltaire to Cideville (30 January 1731).

<sup>66</sup> See *La Mort de mademoiselle Lecouvreur*, ed. Robert Niklaus, in *OCV*, vol.5 (Oxford: VF, 1998), p.542-43; *Zaïre, tragédie*, ed. Eva Jacobs, in *OCV*, vol.8 (Oxford: VF, 1988), p.403:

Et que l'aimable le Couvreur,  
A qui j'ai fermé la paupière,  
N'a pas eu même la faveur  
De deux cierges et d'une bière;  
Et que monsieur de Laubinière [a policeman, the only person present at her burial]  
Porta la nuit par charité,  
Ce corps autrefois si vanté.

an article by Gustave Lanson on the condemnation of the *Lettres Philosophiques* in 1734.<sup>68</sup> Lanson convincingly questioned the interpretation that had persisted until then that the engine of opposition to Voltaire and the cause of his flight from France was the Keeper of the Seals, Germain Louis de Chauvelin. The real threat to Voltaire is shown to come directly from the head of the *parquet*, Guillaume- François Joly de Fleury, a fervent defender of Jansenism. Such a finding prompted Lanson to conclude, ‘Ainsi le parquet du procureur général est plus dangereux pour la libre philosophie que le cabinet des ministres’ (p.385). However, Chauvelin was as inconsistent as the magistrates, the royal censors and the head of the *librairie*. While Voltaire was buoyed up by his belief in August 1731 that Chauvelin was a ‘vrai protecteur des beaux arts’,<sup>69</sup> convincing him that an edition of the *Histoire de Charles XII* could be published, the Keeper of the Seals revoked the decision of his censor to allow the *Temple du Goût* the necessary permission. Apparently the refusal came down to Chauvelin’s personal displeasure at the disrespect shown by Voltaire through his previous clandestine publishing of the same work, having done likewise with the *Histoire de Charles XII* and *Zaïre*.<sup>70</sup>

As a result, Voltaire delayed the publication of the *Lettres Philosophiques*.<sup>71</sup> His belated prudence was useless when a counterfeit edition emerged in April 1734, in Paris. Jansenist elements in the parlement of Paris, led by Joly de Fleury, were no doubt outraged by the attack on Pascal’s ideas in his final letter, a fact of which its

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<sup>67</sup> *Zaïre, tragédie*, p.293.

<sup>68</sup> Gustave Lanson, ‘L’Affaire des Lettres philosophiques de Voltaire d’après des documents inédits’, *Revue de Paris*, 11(1904), 367-86.

<sup>69</sup> D422, Voltaire to Formont (8 [August 1731]).

<sup>70</sup> D586, Jean Baptiste Formont to Cideville ([2 April 1733]).

<sup>71</sup> Although he had decided to have it published clandestinely in both London and Rouen.

author was well aware. In a letter to Formont (a vain attempt to exculpate himself) following the emergence of the pirated edition, Voltaire complains feigning regret, ‘malgré mes prières réitérées de supprimer au moins ce qui regarde les pensées de Pascal, on a joint cette lettre aux autres.’<sup>72</sup> Voltaire had been informed personally by the Keeper of the Seals that his work would be punished.<sup>73</sup> On the initiative of the ministry, a *lettre de cachet* was written against him on 3 May.<sup>74</sup> The intendant of Burgundy was ordered to arrest him after this missive had prompted Voltaire’s flight to that province. On 10 June 1734, the parlement decreed that the *Lettres philosophiques* were ‘scandaleuses, contraires à la religion, aux bonnes moeurs et au respect dû aux Puissances’. They were to be torn up and burned. More worrying for Voltaire was the parlement’s intention to investigate the book’s authorship and punish the culprit. Soon after the parlement’s courtyard bonfire, Voltaire gave his reaction to the affair in a letter to Charles Marie de La Condamine. First, he suggests that the magistrates are not intelligent: ‘Je crois que ces vénérables magistrats n’entendent que très médiocrement Neuton et Loke.’<sup>75</sup> Second, the magistrates do not follow the laws they have laid down for others. Having outlawed the inducement of vomiting by emetic, they rely on it when circumstances require it: ‘Ils changèrent d’avis sans pourtant réformer leur jugement.’ This judicial inertia is related to Voltaire’s final criticism. The magistrates will react to anything that could ‘choquer si vivement les idées reçues’. However, Voltaire’s letter should not be seen as an

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<sup>72</sup> D725, Voltaire to Formont (25 April [1735]).

<sup>73</sup> D638, Voltaire to Thieriot (27 July 1733).

<sup>74</sup> Even Lanson accepts that either Cardinal Fleury or Chauvelin would have had to request the *procureur général* to investigate and that before the condemnation in parlement, the ministry was the ‘moteur’ of opposition to the *Lettres philosophiques*. (‘L’Affaire des Lettres philosophiques’, p.369-70.)

<sup>75</sup> D759, Voltaire to La Condamine (22 June 1734).

attack on the parlement. His comments are matter-of-fact, without venom, the main substance of the letter is a reasoned defence of his *Lettres philosophiques*. Nevertheless, the parlement's decision to bring the author of the *Lettres philosophiques* to justice was a constant source of torment for Voltaire until it was revoked in the 1743. In 1735 copies of *La Pucelle* were circulating in Paris, a state of affairs that caused Voltaire some anxiety. He feared arrest as the authorities became concerned about the presence of this mock-heroic poem. On this occasion, however, Chauvelin prevented the threat to Voltaire's freedom, which came from Joly de Fleury: 'Il [Chauvelin] a accommodé la dernière affaire de Jeanne [Joan of Arc, the *pucelle*]; il n'avait qu'à la laisser aller à m. le procureur général, et m. de Voltaire était perdu sans même qu'il y eût travaillé.'<sup>76</sup>

The *procureur général* was again to blow scalding indignation at the performance of Voltaire's play attacking fanaticism, *Mahomet*. Following the revocation of authorisation to perform the play more than a year previously, *Mahomet* was finally shown in Paris on 9 August 1742. Three days later, Joly de Fleury wrote to the head of police, Claude Henri Feydeau de Marville, informing him that some members of the parlement had attended a performance of the play and found in it 'des choses énormes contre la religion'.<sup>77</sup> Marville, who had authorised the performance, was keen to prevent an overzealous response from the parlement. He found nothing objectionable in the play, 'On n'avait fait parler les acteurs que dans les termes convenables à leur rôle et à leur caractère' (D2639) and encouraged

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<sup>76</sup> D1268, Mme du Châtelet to the comte D'Argental (25 January [1737]).

<sup>77</sup> D2634, Joly de Fleury to Claude Henri Feydeau de Marville ([11 August 1742]).



Joly de Fleury to see it rather than rely on what he had heard (D2638). The *lieutenant*'s approach was guided by his wish to avoid any 'éclat'.<sup>78</sup> Marville was successful in cutting short *Mahomet*'s run with Voltaire's agreement after a meeting between them on 15 August 1742. The attitude of Marville compared to that of Joly de Fleury is a good example of an important point made by Barbara de Negroni in her work on censorship:

Les parlements ont beaucoup plus intérêt que le roi à prononcer des arrêts condamnant des livres. Les arrêts du Parlement sont des instruments de conquête du pouvoir et le signe d'une force politique [and we notice their increase throughout the century as the parlement's opposition increases]. Au contraire, les arrêts du Conseil sont le signe d'une faiblesse: en se scandalisant de l'audace des l'auteurs de libelles, le roi reconnaît implicitement l'inefficacité des lois régissant la librairie.<sup>79</sup>

The parlement's vocal opposition to what it deemed to be 'contraire à la religion, aux bonnes mœurs et au respect dû aux Puissances' was of particular importance during the 1730s and 1740s when the conflicts over *Unigenitus* were marked by ministerial and parliamentary intransigence. In fact, it has been suggested that in the scandals that surrounded the condemnation of the *Lettres philosophiques* and the opposition to *Mahomet*, Voltaire had become a pawn in the conflict between Jesuits and Jansenists.<sup>80</sup> We have seen how Voltaire was aware of the possible offence caused by his last chapter on Pascal (D725) and the reasons for Joly de

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<sup>78</sup> D2639, Marville to Maurepas (14 August 1742); D2641, Marville to Maurepas (15 August 1742).

<sup>79</sup> Negroni, *Lectures interdites*, p.96.

<sup>80</sup> Albert Bachman, *Censorship in France from 1715 to 1750: Voltaire's opposition* (New York: Columbia University, 1934), p.110-12.

Fleury's indignation at the performance of *Mahomet* is evident in a letter to Marville where he rages, 'que vous poursuivez les jansénistes et leurs écrits, et que vous laissez tranquille un auteur scélérat et qui vous fait triompher l'irréligion et les crimes'.<sup>81</sup> To look at Voltaire as simply a victim of the parlement's stifling censorship rules out the possibility of viewing Voltaire's reaction to the control of ideas in the way in which Nicholas Cronk has done. What if the *Lettres philosophiques* concluded with a chapter against Pascal with a view to currying the favour of the Jesuits, who could then overlook Voltaire's positive references to Locke? Voltaire knew that the chapter on Locke was the main sticking point as he had been told so by the censor.<sup>82</sup> Was he, in effect, playing the censorship authorities off one another with the *Lettres philosophiques*? It is difficult to say so definitively. His chapter on Locke does, however, contain an interesting assertion towards the end, which could be read as a reference to the Jansenists:

D'ailleurs, il ne faut jamais craindre qu'aucun sentiment philosophique puisse nuire à la religion d'un pays. Nos mystères ont beau être contraires à nos démonstrations, ils n'en sont pas moins révéés par nos philosophes chrétiens, qui savent que les objets de la raison et de la foi sont de différente nature. Jamais les philosophes ne feront une secte de religion: pourquoi? C'est qu'ils n'écrivent point pour le peuple, et qu'ils sont sans enthousiasme.<sup>83</sup>

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<sup>81</sup> D2638, Joly de Fleury to Marville ([13 August 1742]).

<sup>82</sup> Bachman, *Censorship in France from 1715 to 1750*, p.99-100. The Jesuits were not fooled however. According to the *Journal de Trévoux*, the work was 'fort sagement supprimé' (February 1735, Article XVII, p.327) but the Jesuit journal did show its approval, to a certain extent, of the chapter on Pascal: 'Notre Auteur a, comme nous avons dit, assez bien pris le caractère général de M. Pascal, qui était un peu tourné à la mélancolie, et à cette espèce de dévotion sévère et misantrope, qui augure mal de son prochain, et damne par charité le reste du genre humain' (p.338).

<sup>83</sup> *Lettres philosophiques*, M.xxii.126. Voltaire was aware of the potency of his final letter telling Thieriot (D638 (27 July 1733)) that the inclusion of the letter on Pascal in the French edition would give it 'a new relish' for his French readership.

If we cannot make such a definitive claim about the *Lettres philosophiques*, Voltaire's reaction to the suppression of *Mahomet*'s run shows that he did take advantage of the competing authorities for his benefit in that situation. He writes to D'Argental: 'Puisque me voilà la victime des jansénistes, je dédierai Mahomet au pape, et je compte être évêque *in partibus infidelium*, attendu que c'est là mon véritable diocèse.'<sup>84</sup> Cronk concludes that Voltaire's approach to censorship was playful and presented a challenge to his creativity. His approach

enables the writer Arouet to create a literary persona whose very existence makes a joke of all attempts to manipulate and control. His genius for marketing his books turns 'Voltaire' into a best-selling brand; as public demand for the brand-name grew, and as the editions multiplied beyond control, the censors became increasingly less able to act; and in what is a happy vicious circle, any attempt at censorship only increased the public demand for further clandestine editions. In these circumstances, Voltaire welcomes any attempt to make him a victim as an opportunity to assume another mask and to prepare another performance.<sup>85</sup>

The fact that Voltaire would attempt to manipulate the controversies surrounding *Unigenitus* at a time when he did not take these issues very seriously should be of no surprise to us as we have seen how during this period he showed little interest in the religious quarrels that so agitated the kingdom.

Up until this point, and therefore for the majority of Voltaire's life, the parlements were not his great enemies. From youthful admiration in his epic poem,

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<sup>84</sup> D2643, Voltaire to D'Argental (22 August [1742]). Pope Benedict XIV actually read the play and expressed his pleasure at his reading of the work to the author through his secretary. See *Mahomet*, ed. Christopher Todd, in *OCV*, vol.20B (Oxford: VF, 2002), p.159n.

<sup>85</sup> Cronk, 'Voltaire and the benefits of censorship', p.20.



*La Henriade*, to the kind of mockery evident in his writings, which was neither backed by genuine hatred nor aimed exclusively at the magistrates, Voltaire's view of the courts had changed slowly but not dramatically until the mid-century. Even in their capacity as censors of his works, the magistrates had figured as just one obstacle, among others, to the dissemination of his heterodox writings. The magistrates' later opposition to universal taxation in the form of the *vingtième* would affect this view from the mid-century onwards. And, perhaps more significantly, the attempt by Robert François Damiens on the life of the king in 1757 would force Voltaire to view more critically the parlement's role in promoting the kind of religious fanaticism he had continually found abhorrent, as we shall see in the following chapter.

## CHAPTER 2

### Voltaire and the Parlements, 1750-1762

The choosing of dates and dicing of history into manageable time periods is always an artificial process, and to begin this chapter at the mid-century seems almost too convenient. However, for both Voltaire and the parlements, the year 1750 was significant. It marks the beginning of the *philosophe*'s exile from Paris and the start of the escalation of difficulties – ‘La crise des années cinquante’<sup>1</sup> - between the parlement and the crown. Likewise, 1762 is an important turning point in the relations between Voltaire and the sovereign courts because of the confirmation by the parlement of Toulouse of the death sentence imposed on the Protestant Jean Calas on 9 March of that year. In the intervening period, a real development is evident in Voltaire's awareness of the courts' involvement in public affairs because of their interventions in the financial and religious administration of the kingdom. While the early 1750s saw Voltaire treat *parlementaire* issues with great levity and, to a certain extent, that same lack of interest which marked his early reaction to their

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<sup>1</sup> Egret, *Louis XV et l'opposition parlementaire*, p.50

protests over *Unigenitus* and Law's monetary system, the attempted regicide by Robert François Damiens in 1757 polarised his view, and for two reasons. Damiens's claim that he was motivated by the religious quarrels surrounding *Unigenitus*, and by the king's failure to heed the opposition of the parlement of Paris to the authorities' attempts to enforce it, awoke Voltaire to that institution's contribution to religious fanaticism in the realm. Equally, the role played by the parlement of Paris in the targeting of *philosophes* in the wake of Damiens's attack – in particular, the banning of the *Encyclopédie* – convinced him that these senior magistrates had a hand in much of what he found abhorrent in the kingdom. As well as examining these questions, this chapter will also look briefly at Voltaire's relations with his local magistrates, relations that show his pragmatic approach to individual judges, an approach to those in power or with influence which he would consistently adopt and would prove significant for his relations with the parlement in the 1770s, as we shall see in Chapter 6.

### ***The Parlements and the Administrative Monarchy, 1750-1762***

As mentioned above, some historians have seen in the increasing difficulties of the crown and the parlement in the 1750s, the emergence of a period of 'crisis' for the administrative monarchy.<sup>2</sup> William Doyle has suggested that the 'crises' of the second half of the eighteenth century were simply examples of the normal 'stresses,

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<sup>2</sup> See also, John Rogister, 'The crisis of 1753-4 in France and the debate on the nature of the monarchy and of the fundamental laws', in ed. Rudolf Vierhaus, *Herrschaftsverträge, Wahlkapitulationen, Fundamentalgesetze*, Studies presented to the International Commission for the History of Representative and Parliamentary Institutions, LIX, (Göttingen: Vandenhoeck & Ruprecht, 1977), p.105-20.

strains and pressures' that are exerted on any political system; he underlines the fact that the relationship between crown and parlement after the mid-century was one of business as usual until the Brittany affair.<sup>3</sup> This understates the situation. The religious controversy surrounding *Unigenitus* took on a new and invidious aspect with the demise of Cardinal Fleury. As veritable prime minister, Fleury had certainly sought to enforce the controversial 'constitution' on the faithful, but even he disagreed with an over-zealous approach by the episcopacy. Not so with the new Archbishop of Paris, Christophe de Beaumont, whose episcopate saw the re-introduction of *billets de confession* and the refusal of sacraments to those who failed to produce these 'confession certificates'. The principle was crude: those wishing to receive the sacraments of the Church had to produce a *billet de confession* which attested to the fact that their confession had been heard by a confessor who had accepted *Unigenitus* as a rule of faith. The parlement of Paris, often on the initiative of the coterie of Jansenists who were highly influential in the court,<sup>4</sup> strongly opposed these new measures, going so far as to order the arrest of priests who had refused the sacraments. The result of the adoption of such uncompromising positions by the parlement and the ultramontane clergy meant that business was far from usual between the crown and the parlement during the 1750s. Business was hindered greatly during the judicial strikes of November 1751, following the *Hôpital général*

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<sup>3</sup> William Doyle, 'The Parlements', in ed. Keith Michael Baker, *The French Revolution and the Creation of a Modern Political Culture*, vol.1, *The Political Culture of the Old Régime* (Oxford: Pergamon Press, 1987). According to Doyle, 'the relationship between crown and parlement was [...] a highly effective way of involving the governed in government, a stable political system working by well-understood, if sometimes tacit rules' (p.162).

<sup>4</sup> Swann, *Politics and the Parlement of Paris under Louis XV*, p.88.

affair<sup>5</sup> and in May 1753, following the king's refusal to hear the parlement's *Grandes remontrances*.<sup>6</sup> An increasingly recalcitrant parlement forced the king to pronounce a *déclaration de discipline* in December 1756 which provoked the magistrates, even some members of the normally loyal *grand'chambre*, to resign from their posts, a move that resulted in their exile.

As well as these religious controversies, the parlement is probably best remembered for its opposition to fiscal measures, which contributed to its deteriorating relations with the crown. The 1750s saw the state attempt to recover from the costly and fruitless War of the Austrian Succession only to plunge deeper into the mire of the perilous Seven Years' War. The creation of peacetime taxation in the form of the *vingtième* was unprecedented.<sup>7</sup> The government's doubling (1756) and trebling (1760-63) of this direct tax over the decade was to lead to continued opposition from the court and refusals to register these taxes, drawing back the veil that had hitherto guarded in helpful obscurity (for the monarchy at least) the true nature of the legislative process. Clearly, these new burdens weighed heavily on the magistrates, but the sovereign courts were also nurturing nascent notions of

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<sup>5</sup> The conflict over the *Hôpital général* was caused by the Archbishop's wish to remove all Jansenist influence from the board of the *Hôpital général*, a group of nine institutions that looked after lunatics, women, prisoners and the sick in Paris where *billets de confession* had been recently introduced. This move was opposed by the parlement of Paris who refused to register the *déclaration* in its original form.

<sup>6</sup> The *Grandes remontrances* (9 April 1753) were a Jansenist and Gallican response to the crown's continual quashing of proceedings against those priests who refused sacraments for want of *billets de confession*. They accused the clergy of seeking independence from royal authority and reminded the sovereign of his duty to obey the laws of the kingdom. These remonstrances were also significant because they appeared in public from May 1753 onwards, bringing news of the religious controversy to the emerging tribunal of public opinion. See *Remontrances du Parlement de Paris au XVIIIe siècle*, eds Jules Flammarion and Maurice Tourneux, 3 vols (Paris: Imprimerie nationale, 1888-98), i.506-614.

<sup>7</sup> A *dixième* tax had been imposed by Louis XIV in 1710, which had lasted seven years. The *dixième* was re-introduced during the War of the Polish Succession (1733-38) and War of the Austrian Succession (1740-48) to cover the costs of these conflicts.



themselves as a single body that could represent the nation through its assent or opposition to controversial financial edicts.<sup>8</sup> The same issues were in parallel vocalised by the provincial parlements during the 1750s,<sup>9</sup> whether in support of the Paris parlement during its exile, against the second *vingtième* and other fiscal innovations, or – in concert with the Paris parlement – against the expanding jurisdiction of the *Grand Conseil*.<sup>10</sup> The parlement of Paris reciprocated with remonstrances in favour of its provincial allies when it perceived that the consensus which respected the traditional forms and practices of the legal process was being broken by monarchical or ministerial ‘despotism’.<sup>11</sup> This concerted behaviour by the parlements of France gave credence to a resurrected theory of *parlementaire* unity which presented the individual courts as constituent parts of one national body with

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<sup>8</sup> Recognition of the parlement’s changing discourse in its opposition to the crown, particularly after the mid-century is evident in some key works on the period. An obvious example is Keith Michael Baker’s *Inventing the French Revolution: Essays on French political culture in the eighteenth century* (Cambridge: Cambridge University Press, 1990). Julian Swann also accepts the existence of a new discourse of opposition but it does not form part of his thesis in *Politics and the Parlement of Paris*. Voltaire was one of the first historians to reject the parlement’s pretensions to representation of the people in his *Histoire du Parlement de Paris* (1769). Nostalgic royalists have done so ever since: Roger Bickart described and dismissed these pretensions in *Les parlements et la notion de souveraineté nationale au XVIIIe siècle* (Paris: PUF, 1932); Michel Antoine shows the primacy of the monarchical position in, ‘La monarchie absolue’, in ed. Keith Michael Baker, *The Political Culture of the Old Régime*, p.3-24. John Rogister questions the notion generally accepted by historians that ‘the theory of government contained in the remonstrances of the various parlements amounted to the formulation of a new and subversive notion of national sovereignty’ in his article ‘Parlementaries, sovereignty, and legal opposition in France under Louis XV: An introduction’, in *Parliaments, Estates and Representation*, 6 (1986), 25-32 (p.26). This, however, is a minority view.

<sup>9</sup> Egret, *Louis XV et l’opposition parlementaire*, p.90.

<sup>10</sup> The *Grand Conseil* was a sovereign court based in Paris but with jurisdiction over the whole realm. According to Marcel Marion, *Dictionnaire des Institutions de la France au XVIIe et XVIIIe siècle*, ‘Le rôle essentiel du Grand Conseil fut toujours de juger les affaires pour lesquelles les Parlements auraient manifestement manqué de l’impartialité nécessaire.’ An *arrêt du conseil* of 10 October 1755 enjoined all inferior courts to obey the *arrêts* of the *Grand Conseil*. The parlement of Paris viewed this as an attack on its sovereign authority and produced remonstrances against it. See Flammermont, *Remonstrances*, ii.12-107.

<sup>11</sup> On 2 July 1756, the parlement of Paris produced remonstrances in favour of certain members of the parlement of Bordeaux, and in favour of the parlements of Rouen and Bordeaux on 4 August (Flammermont, *Remonstrances*, ii.133-34). On 27 March 1759, the parlement of Paris also intervened in the Besançon affair where thirty magistrates were on strike over financial edicts prolonged by the intendant turned first president, Bourgeois de Boynes (ibid.172-84).

the parlement of Paris at its head.<sup>12</sup> This notion of the *union des classes*, implicit in the parlements' behaviour, became explicit in their remonstrances<sup>13</sup> and abhorrent to the crown.<sup>14</sup> Voltaire became increasingly interested in public affairs involving the parlements - his interest in public affairs in general is well documented<sup>15</sup> - and he would eventually adopt the crown's position in questioning the historical accuracy of the parlements' claims to unity. This interest during the 1750s is obvious in his works and correspondence, which I shall now examine.

### ***The 1750s: from Apathy to Outrage***

I am well aware of the dangers that face any individual who approaches Voltaire's *Correspondances* with a view to proving an opinion they have about him. Nonetheless, I will attempt to show, from his letters, a developing attitude towards the parlement by choosing only quotations that I believe are relevant (*I cannot claim to choose objectively*), while remaining constantly vigilant as to the context of their

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<sup>12</sup> The notion was espoused by the Jansenist lawyer Louis-Adrien Le Paige in *Lettres historiques sur les fonctions essentielles du Parlement, sur le droit des pairs et sur les loix fondamentales du royaume* (Amsterdam: [n. pub], 1753-54) but had been first mooted in the seventeenth century at the time of the Fronde in the famous *arrêt d'union* opposing Mazarin's fiscal edicts, the Parisian courts then relying on Charles VII's ordinance of 12 November 1454, among others, to defend their pretensions to corporal unity. In the eighteenth century it was found in the *Judicium Francorum* (1732), which purported to subordinate the king's will to that of the parlement, which represented the people.

<sup>13</sup> Flammermont, *Remonstrances*, ii.73, 135-48: 'Le parlement de Paris est la première et la métropolitaine cour du Royaume, suivant les expressions de François Ier. Tous les autres en sont des détachements ou, pour mieux dire, des extensions. Ainsi la cour métropolitaine et toutes ses colonies sont des diverses classes d'un seul et unique parlement, les divers membres d'un seul et unique corps, animés du même esprit, nourris des mêmes principes, occupés du même objet' (ibid.138).

<sup>14</sup> The king did not respond to these remonstrances.

<sup>15</sup> Even a substantial but much less than exhaustive list would provide only a glimpse of the extent of scholarship in the area. For a comprehensive bibliography, see Frederick A. Spear, *Bibliographie analytique des écrits relatifs à Voltaire 1966-1990* (Oxford: VF, 1992). Also, the monumental *Œuvres complètes de Voltaire* published by the Voltaire Foundation (Oxford, 1968-), presents a critical reappraisal of Voltaire's works. A constant theme in the approach adopted in the volumes that have appeared to date seems to be the emphasis on Voltaire's works not as literary edifices but as responses to public or personal issues at the time and the broader philosophical issues of his time.



enunciation. Before I produce any proof from his letters of his feelings towards the sovereign courts, it might be useful first to show that, in a simple quantitative analysis, there is a constant increase over the period 1750-62 in the number of times the parlements are mentioned.<sup>16</sup> Before analysing the reasons for this increase, it seems fair to surmise that this represents an increase in Voltaire's awareness of – I will not yet venture to suggest 'interest in' – the courts. It seems reasonable to suggest that the increase between, for example, 1751 and 1759 can be easily explained by the simple fact that, in 1751, Voltaire was far removed from the politics of France as a member of the Prussian court, while in 1759, he had settled down in France as a *seigneur de village*, committed to the improvement of his community. At best, this explanation could justify an increased interest in his local parlement of Dijon. What it fails to take into account is Voltaire's strong interest in public affairs, and in particular, public finances around the mid-century.

Before leaving Paris for Potsdam on 10 July 1750, Voltaire had produced an incendiary contribution to the debate surrounding the imposition of a direct tax, applicable to all.<sup>17</sup> With the Treaty of Aix-la-Chapelle (1748) signalling the end of the War of the Austrian Succession, the government was forced to end its perception of the *dixième* tax which, as it had promised back in 1741, would not last longer than the hostilities it was destined to fund. No sooner was the *dixième* suppressed than the *vingtième* was introduced as a direct and permanent tax which would be applied

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<sup>16</sup> 1751: D4518, D4549, D4561; 1754: D5627, D5630, D5640, D5767, D5925, D5933; 1759: D8055, D8086, D8137, D8139, D8283, D8286, D8288, D8338, D8363, D8374, D8517, D8554.

<sup>17</sup> *La Voix du sage et du peuple*, ed. David Williams, in *OCV*, vol.32A (Oxford: VF, 2006). It was suppressed by *arrêt du conseil* on 21 May 1751 along with forty other *libelles*, many of them responding directly to it (p.226-28).

justly to all and which would tend towards ‘à la fois soulagement pour la masse des contribuables, profit pour le Trésor et moyen d’amortir progressivement une dette publique écrasante.’<sup>18</sup> The parlement had opposed the *vingtième* with remonstrances in May 1749 and reiterated its opposition on 7 June 1750 in remonstrances on the prolongation of certain other taxes for six years. In its opposition it warned that ‘tous les biens de votre royaume se trouveraient encore chargés d’une imposition fixe et déterminée dont l’augmentation serait toujours à craindre et qui pourrait devenir insensiblement un tribut irrévocable’. The effect of this continued tax would be ‘les villages [...] dépeuplés, le commerce interrompu, les terres incultes’.<sup>19</sup> *La Voix du sage* was written by Voltaire in support of *contrôleur général*, Machault d’Arnouville’s tax reforms.<sup>20</sup> Voltaire does not mention the parlement’s opposition. His target is the clergy who, for the first time, would be subjected to a direct tax rather than their contribution normally agreed by the Assembly of the Clergy known as the *don gratuit*. His message is clear and simple: ‘[La] raison nous apprend que l’Eglise doit contribuer aux charges de l’Etat à proportion de ses revenus.’<sup>21</sup> ‘Fainéants’ in convents contribute nothing to the state, according to Voltaire. During his time at the Prussian court, Voltaire’s concern for France’s finances continued. 1751 saw the emergence, in a collection of Voltaire’s *Œuvres*, of the *Dialogue entre*

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<sup>18</sup> Marcel Marion, *L’impôt sur le revenu au dix-huitième siècle principalement en Guyenne* (Toulouse: E. Privat, 1901) p.147. The *dixième* was suppressed and *vingtième* created on 19 May 1749.

<sup>19</sup> Flammermont, *Remonstrances*, i.398-9.

<sup>20</sup> He had done so previously in a private letter to Machault, the *Lettre à l’occasion de l’impôt du vingtième*, of 16 May 1749. Henri Duranton, in his critical edition of this piece, states that ‘Toute la lettre est à lire comme un négatif de la démonstration que vont présenter deux jours plus tard les remonstrances du Parlement’ (*OCV*, vol.31B (Oxford: VF, 1994), p.305n). However, I would suggest that the letter should not be seen as written in anticipation of the *parlement*’s remonstrances, but rather, to sustain Machault’s reforms in the face of the most likely argument against increased taxes after war, *viz*, ‘Have we not suffered enough?’ In any case, it appears that the *contrôleur général* did not receive it.

<sup>21</sup> *La Voix du sage et du peuple*, p.227.

*un philosophe et un contrôleur général des finances*. Like *La Voix du sage*, the aim was to support the concept of universal taxation in the form of the *vingtième* and the clergy remained the target. At no stage does he directly counter the parlement's position on the *vingtième*. In fact, he shares the surprise of the parlement at the creation of two million *livres* of *rentes* by the government in May 1751 which 'a frappé votre parlement d'un tel étonnement qu'il ne peut se dispenser de l'exposer à V.M.'<sup>22</sup> In a letter of July 1751 to the comte D'Argental, Voltaire states: 'Les remontrances du parlement n'ont pas fait plus de fortune icy qu'à votre cour, *mais je ne conçois pas comment le roy est réduit à emprunter*' (my emphasis).<sup>23</sup>

Voltaire and the parlement of Paris may have been *ad idem* on the wisdom of further government borrowing but there is where the consensus ended. Until the end of 1753, the predominant reaction of Voltaire to the parlement of Paris and its conflicts is one of sarcasm and levity. This is evident in his reaction to the *Hôpital général* affair, prompted by the introduction of *billets de confession* in this institution and subsequent irregularities in its administration, conducted by the archbishop of Paris. The parlement had refused to register the king's *déclaration* which brought changes to the administration of this institution, only accepting to register a severely modified version. The king quashed the parlement's modifications of his *déclaration* – which would have rendered it totally ineffective - by *arrêt du conseil* but failed to include the necessary letters patent for it to be registered in parlement. In order to enforce the registration of the *déclaration* 'purely and simply', the king struck out all *arrêts* and *arrêtés* concerning the matter from the parlement's records. The

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<sup>22</sup> Flammermont, *Remontrances*, i.444. These were followed by *itératives remontrances* five days later (ibid.447-9).

parlement viewed this *coup d'autorité* as a serious infringement and went on strike in November 1751. Letters patent ordering the return of the parlement were soon registered (1 December 1751) but the whole affair showed what an over-zealous reaction by all the parties involved could produce. There is no evidence of Voltaire's reaction to the result of the affair, but in a letter to his niece, Mme Denis, in August, he states sarcastically: 'Puisque le parlement fait actuellement si grand bruit pour un hôpital, et qu'il ne se mêle plus que des malades, j'ai envie de me venir mettre sous sa protection.'<sup>24</sup>

In that same month he wrote at length to the duc de Richelieu, referring in particular to the *Siècle de Louis XIV*. It had been printed in Prussia the previous year but the first four and a half chapters had appeared in France in 1748 as a collection entitled *Anecdotes sur Louis XIV*.<sup>25</sup> The purpose of this, Voltaire informed Richelieu, was to 'sond[er] les esprits et prépar[er] L'opinion publique'.<sup>26</sup> He prides himself on the fact that he has not held back (and his jaunt to Prussia had facilitated immunity from any repercussions): '[J]e dis des choses très fortes [...] je n'ay nullement ménagé la conduite inexcusable du parlement dans la régence d'Anne d'Autriche.' The inexcusable conduct to which he refers is the parlement's vanity. Whereas under Louis XIII, the parlement hardly had the right to make remonstrances, during the regency, 'Le parlement de Paris ayant décidé deux fois cette question, c'est à dire ayant seul déclaré par des arrêts ce droit des mères [to become Regent for their son, the king], parut en effet avoir donné la régence; il se regarda, non sans

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<sup>23</sup> D4518, Voltaire to D'Argental (13 July [1751]).

<sup>24</sup> D4549, Voltaire to Mme Denis (24 August 1751) He had complained earlier in the letter, 'Ma santé dépérit tous les jours'.

<sup>25</sup> *Œuvres Historiques de Voltaire*, ed. René Pomeau (Paris: Gallimard, 1957), p.29.

vraisemblance, comme le tuteur des rois, et chaque conseiller crut être une partie de la souveraineté'<sup>27</sup> He is also critical of the parlement's populism during the Fronde: '[I]l acquit la confiance des peuples par les contradictions dont il fatigua le ministère.' The parlement's suppression of the intendants by *arrêt* on 14 May 1648, while pleasing the nation, 'menaçait la cour d'une révolution'. Such criticism is to be expected from the author of *La Henriade*. These criticisms belong in the past, as Voltaire relates to Richelieu earlier in the same letter, referring to the Fronde: 'Heureusement les conspirations sont passées de mode'. Happy the state, but unfortunate for the theatre, for Voltaire thought that his *Catilina*, or *Rome sauvée*, would have been better received during the Fronde.<sup>28</sup> At this time Voltaire does not sense any potential for frondish behaviour on the parlement's behalf, whether over taxes or *billets de confession*.

If Voltaire could be said to show an interest in the parlement early in its exile following its strike after the king's refusal to heed the so-called *Grandes remontrances*, it is only because his long-time friend and correspondent, the comte D'Argental, an honorary member of the *grand'chambre*, had been transferred to Pontoise with the rest of the *grand'chambriers*.<sup>29</sup> The exile lasted until September 1754 and forced the government to create a replacement court. This new court, the

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<sup>26</sup> D4561, Voltaire to the duc de Richelieu (31 August 1751).

<sup>27</sup> *Le Siècle de Louis XIV*, in *Œuvres Historiques de Voltaire*, p.636.

<sup>28</sup> See *Rome sauvée, ou Catilina*, ed. Paul LeClerc, in *OCV*, vol.31A (Oxford: VF, 1992). Voltaire's reference is to Catiline's conspiracy to become one of the consuls of the Roman republic, in which he saw parallels with the Fronde. Catiline had attempted to propose his candidacy but this was barred by the Senate (66 BC). He headed a plot to murder the two newly elected consuls, with a view to subsequently declaring himself consul with Antonius but his plan was discovered. Following this, he presented himself for the consul elections in 64 BC, but lost out to Antonius and the *parvenu*, Cicero.

<sup>29</sup> D5482, Voltaire to Mme Denis (17 August [1753]): Voltaire asks if D'Argental is still at Pontoise, the place of the magistrates exile. D5543, Voltaire to D'Argental (10 October [1753]): Voltaire comforts his *ange* by suggesting that he shall have returned to Paris, from Pontoise, by winter.



*Chambre Royale*, was boycotted by lawyers, *procureurs* and lower courts - most notably the *Châtelet* - forcing the justice system to a halt.<sup>30</sup> The continuing crisis - the word is hard to avoid when writing about the 1750s - is a source of amusement for Voltaire. He thanks the comtesse de Lutzelbourg, with great irony, for the 'belles nouvelles de la fermeté romaine du grand Chastellet de Paris.'<sup>31</sup> He refers to the magistrates' exile as 'retraites agréables'<sup>32</sup> and, in a separate letter, wonders what all the lower office holders are doing now that the parlement is exiled, adding, 'je m'imagine qu'ils vont faire des pièces de théâtre',<sup>33</sup> a more useful pursuit, in Voltaire's eyes.

The reason for Voltaire's ironic tone and general levity regarding the conflict between church and parlement<sup>34</sup> over the refusal of sacraments is clear from his letter of 24 October to the comtesse de Lutzelbourg. There are more serious problems affecting Parisians than confession certificates: 'On songe à Paris à de misérables *billets de confession*, et on ne songe ny à la petite vérole n'y à l'autre. Ces deux damoiselles font pourtant plus de ravages que le clergé et le parlement' (D5554). This is a view that Voltaire continues to hold and will be evident later when the relatively mundane issues agitating the parlement are compared to the damaging effects of the Seven Years' War. This view does not contradict the increased

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<sup>30</sup> Rogister, *Louis XV and the Parlement*. He explains how the magistrates of the *Chambre Royale* were 'maintaining a semblance of activity by postponing business from one day to the next' (p.227).

<sup>31</sup> D5554, Voltaire to the comtesse de Lutzelbourg (24 [October 1753]) The *Châtelet* had gone so far as to accept a case for refusal of sacraments but this was blocked by the king's council.

<sup>32</sup> D5577, Voltaire to comtesse de Lutzelbourg (21 November 1753).

<sup>33</sup> D5573 to Mme Denis (20 November [1753]).

<sup>34</sup> Voltaire refers to it as 'le combat des rats et des grenouilles' on a number of occasions. See D5554, D5569, D9121. The reference is to the *Batrachomyomachia*, attributed to Homer, a mock epic poem describing a one-day battle between mice and frogs. Voltaire clearly uses the term to imply the nugatory nature of the conflict.

awareness, evident in Voltaire's letters, of the practical problems which the parlement's exile had precipitated. In fact, at first he is incredulous: 'Est il vray que les affaires publiques soient dans une si grande confusion?' This soon gives way to the realisation in the same letter that 'plus d'un particulier est la victime des dissensions publiques',<sup>35</sup> when he considers the effect on *rentiers*.<sup>36</sup>

This new turn forces Voltaire to pay closer attention. In November 1753, he is curious but remains aloof: 'Le parlement revient il à Paris? Le combat des rats et des grenouilles est il fini?'<sup>37</sup> By January there is a new urgency in his words: 'Savez vous du moins si le Châtelet rend la justice? Pouvez vous me le mander?'<sup>38</sup> We could be forgiven for assuming that this is simply an aberration when we read his letter of 20 January to his niece: 'Eh bien, voilà donc votre parlement et votre Châtelet à tous les diables! C'était une belle occasion pour la fidèle chambre des comptes; on aurait pu en faire un parlement, et ils auraient apuré toutes les causes.'<sup>39</sup> Read quickly, this could be another example of a facetious Voltaire making light of events. However, the final clause suggests that he has considered this scenario as a solution that would please those affected by the situation. I believe the next two sentences of the letter add weight to my speculation about Voltaire's genuine concern: 'Tout cela ne vous importe guère. Je fais mes compliments à ce qui *vous* intéresse (my emphasis).'<sup>40</sup>

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<sup>35</sup> D5627, Voltaire to Mme Denis (17 January [1754]).

<sup>36</sup> D5627: 'Cinq ans d'une rente sur mr Destain demeurez à l'abandon faute d'une formalité, quatre ans de mr Dauneuil, quatre ans de mr le maréchal de Richelieu [...]'

<sup>37</sup> D5569, Voltaire to Mme Denis (13 November [1753]).

<sup>38</sup> D5627, Voltaire to Mme Denis (17 January [1754]).

<sup>39</sup> D5630, Voltaire to Marie Elisabeth Dompierre de Fontaine (20 [January 1754]).

<sup>40</sup> Voltaire's habit of addressing to his correspondents issues that do not interest them but interest him greatly can be noticed particularly in his letters to Mme Du Deffand. See for example D13684 (21 November 1766) in which Voltaire mentions, after discussing Rousseau, the bad name France has abroad because of the cases of Calas and La Barre; he says that the French are a nation divided in two parts: 'l'une de singes oisifs qui se moquent de tout, et l'autre de Tigres qui déchirent.' Mme Du



Confirmation of Voltaire's genuine unease about public affairs comes in a letter to the former Rouen *parlementaire*, Cideville where he describes them as being 'dans une confusion dont tous les particuliers se ressentent.'<sup>41</sup> His following comment that, due to the situation, 'on éprouve des désastres que la guerre même n'a jamais causez' seems like an exaggerated comparison more acceptable in peacetime, but demonstrates nonetheless, his feelings on the effects of an interruption to justice. Voltaire's interest is not purely altruistic, which is not surprising given his reputation for rapacity.<sup>42</sup> In April, he tells Mme Denis that he has had money deposited in the parlement for the past two years, money currently inaccessible due to the exile of the *parlementaires*. Voltaire is concerned for this effect on his finances and for others in similar situations: 'Combien de familles sont dans le même cas, et dans une situation bien plus triste!'<sup>43</sup> It is certain that others were more inconvenienced by the situation, as in the period between the return of the parlement from exile in 1754 and

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Deffand's reply does not address the issue and seems oblivious to it (D14201 (26 May 1767)). In July she writes to the duchesse de Choiseul complaining about Voltaire's excessive compassion, not for the victims of the French justice system, but for her: 'Mais il ne cesse de s'attendrir sur les malheurs de mon état [...] On est toujours maladroit en feignant les sentiments qu'on n'a pas' (D14201, Commentary).

<sup>41</sup> D5640, Voltaire to Cideville (28 [January 1754]). In February 1754, Barbier describes the situation thus: 'Les autres juridictions sont en suspens. Le Châtelet tient l'audience pour les petites affaires courantes, et la misère continue et s'augmente de plus en plus par cette léthargie' (*Journal*, iv.5).

<sup>42</sup> This reputation seems to be one cultivated by his enemies: see, for example, Louis Nicolardot, *Ménage et finances de Voltaire* (Paris: E. Dentu, 1845). Nicolardot, the author of 'Les Antivoltariens, depuis les temps les plus reculés jusqu'à nos jours', in *Revue du monde catholique*, 9 (1864), 507 *et seq.*, was perhaps unduly influenced by the discourse of those whom he studied. Marmontel, on the other hand, gives more balance to the question and does attest to Voltaire's generosity at certain times, while not ignoring the patriarch's ability to drive a hard bargain: See *Mémoires de Marmontel* (Geneva: Slatkine Reprints, 1967), vol.2, p.142, 152, 294-95. It must be said that Voltaire did take advantage of all possibilities to make profit. On his attitude to money see the *Dictionnaire Général de Voltaire*, ed. Trousson and Vercruysse, article 'Argent': 'Cette vision très libérale que Voltaire a de la place de l'argent dans la société se traduit, dans son éthique personnelle, par un usage sans complexes de toutes les occasions de profit offertes par les mécanismes financiers.'

<sup>43</sup> D5767, Voltaire to Mme Denis (12 April 1754).

the mass resignation of its members in December 1756, Voltaire had not acted to recover his money deposited at the parlement.<sup>44</sup>

While Voltaire's concern for the ill effects of the parlement's exile is genuine (however much it may be based on self-interest), he is continually flippant with regard to other issues concerning the courts. To his niece and nephew he remarks how 'Il serait douloureux que la situation de milles familles demeurât incertaine parce que quelques fanatiques exigent des billets de confession de quelques sots' (D5925). He continues: 'Il faut se moquer de tous les autres [billets], excepté des billets doux.' Sébastien Dupont judges Voltaire's feelings accurately when he states, following the parlement's denouncing of *Unigenitus*<sup>45</sup> and the subsequent quashing of this *arrêt* by the *conseil d'état*, 'heureux celui qui contemple ces débats, et qui en rit en secret' (D6246). And Voltaire does. In a letter to Thieriot, he shows how ridiculous he finds parliamentary enforcement of the law of silence,<sup>46</sup> which was supposed to end these public quarrels over the now infamous papal bull: 'On me mande qu'on a deffendu à l'évêque de Troye d'imprimer des mandements. C'est deffendre à la comtesse de Pimbeche de plai[der].'<sup>47</sup> Even affairs closer to Voltaire's heart are ridiculed. He praises the abbé de Voisenon for recommending the suppression of a work by La Beaumelle because 'Une censure de ces messieurs [the

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<sup>44</sup> D7094, Voltaire to Jean Robert Tronchin (22 December [1756]). He complains, 'S'il n'y a plus de parlement, il n'y a plus de caisse. Les tracasseries civiles de France embarassent'.

<sup>45</sup> By *arrêt de règlement* of 18 March 1755 following archbishop Beaumont's bald denial of their competence in cases of refusal of sacraments. See Flammermont, *Remontrances*, ii.4.

<sup>46</sup> The parlement's fifteen month exile in 1753-54 ended in compromise with their return on 4 September 1754 and the crown's declaration of a law of silence concerning all issues relating to *Unigenitus* and an amnesty for those convicted or charged in cases relating to the bull.

<sup>47</sup> D6965, Voltaire to Thieriot (9 August [1756]). Voltaire refers to a character from Racine's *Les Plaideurs* who has been forbidden to take cases against her family. She complains: 'Mais vivre sans plaider, est-ce contentement?' (I.7).

parlementaires] fait seulement acheter un livre. Les libraires devraient les payer pour faire brûler tout ce qu'on imprime' (D6946).

To focus briefly on these affairs closer to Voltaire's heart, this period saw the publication of two important works, the *Poème sur le désastre de Lisbonne* and *Poème sur la loi naturelle*. The former, an immediate reaction to the Lisbon earthquake of November 1755, attacks a flawed philosophy of optimism<sup>48</sup> which declared that *tout est bien*. Voltaire wonders why we are made to suffer if God is just, but he has no answer. He is frustrated by the contradictions that the existence of evil<sup>49</sup> creates. Evil cannot have come from the perfect being that is God, yet it cannot come from anywhere else 'puisque Dieu seul est maître'. We must hope that one day all will be well, but more importantly, we must realise that all is not well today: '*Un jour tout sera bien, voilà notre espérance;/ Tout est bien aujourd'hui, voilà l'illusion*'. Although Voltaire does not synthesise these two statements, they suggest that if we reject the illusion that optimism presents, this act of rejection can motivate us to achieve what our hopes envisage. For this reason, perhaps, H.T. Mason states that 'Avec *Lisbonne*, la route qui mène à *Candide* est définitivement ouverte.'<sup>50</sup> Mason recognises the *Poème sur la loi naturelle* as marking an important stage 'en ce que l'ouvrage annonce une campagne qui ira grandissant dans la dernière décennie de sa vie contre le matérialisme tout autant que contre "l'Infâme"'.<sup>51</sup> More than the intent of these poems in themselves, the events that dominated public life in

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<sup>48</sup> As put forward by Leibniz's *Théodicée* (1710) and developed in Pope's *Essay on Man* (1733). In the preface, Voltaire states that his poem 's'élève contre les abus qu'on peut faire de cet ancien axiome *Tout est bien*'.

<sup>49</sup> *Poème sur le désastre de Lisbonne*, M.ix.465-79: 'Il le faut avouer, le mal est sur la terre'.

<sup>50</sup> H.T. Mason, 'Poème sur le désastre de Lisbonne' in eds Jacques Lemaire, Raymond Trousson and Jerom Vercruyse, *Dictionnaire Voltaire* (Paris: Hachette, 1994), p.168.

<sup>51</sup> H.T. Mason, 'Poème sur la loi naturelle' in *Dictionnaire Voltaire*, p.167.

France until the end of the decade planted the seeds from which *Candide* and the activities of Voltaire's later years would grow, as did they effect a change in Voltaire's view of the parlement.

The Seven Years' War was to be a constant source of disappointment to the *philosophe* because of the debilitation caused to France by the protracted conflict. The potential strain on the state – and hence on the relations between parlement and crown, which were affected increasingly by the latter's new fiscal demands - was evident from the outset with the imposition of a second *vingtième* to sustain the wartime coffers. Indeed, relations were already sour; the aforementioned *arrêt de règlement* of March 1755 against *Unigenitus* was symptomatic of the failure of the law of silence to quell the conflicts over refusal of sacraments. The king had gone so far as to request the intervention of the Augustinian Pope Benedict XIV, which he duly provided in the form of the papal encyclical *Ex Omnibus* (16 October 1756). Before this was registered in France, it had been made public and denounced in parlement by the fervent Jansenist, Le Febvre de Saint-Hilaire. This did not bode well for the *lit de justice* of 13 December where the king essentially adopted the recommendations of *Ex Omnibus*: *Unigenitus* was not to be considered a 'rule of faith'; priests were allowed to fulfil their vocation by instructing their flock in a 'moderate and charitable' way; a clause from Louis XIV's declaration of 1695 was renewed preventing the parlement from compelling a clergyman to administer the sacraments. Added to these laws were a selection of measures which suppressed two chambers of *Enquêtes*, restricted the rights of certain magistrates and the parlement's



right to remonstrate.<sup>52</sup> The response of the lower chambers, the *Enquêtes* and *Requêtes*, was to resign.

Voltaire's reaction is in keeping with his view of the parlements up until now. Provided there is no negative effect on the general public (or Voltaire personally), then there are more serious problems that are more worthy of the public's attention. It is Jean Le Rond D'Alembert who first makes the comparison between parliamentary affairs and European warfare in relating to Voltaire the news of the *lit de justice*: 'Tout Paris est dans l'attente de ce grand événement qui me paroît à moi bien petit en comparaison des grandes affaires de l'Europe' (D7079). Voltaire agrees in his reply to his fellow *philosophe* that affairs in Paris are only 'triste' compared to the civil wars in Germany, which are 'affreuses' (D7093). Voltaire repeats the comparison twice to Tronchin in the month of December (D7094, D7097). The repetition of attractive phrases or clever comparisons is not an unusual feature of Voltaire's letter writing and it does allow us to question how sincerely felt were the sentiments expressed.<sup>53</sup> In this case, I would not say that Voltaire did not mean what he said, but I would suggest that the parlement could have gone unmentioned without D'Alembert's illustrative comparison. Having said that, the poet makes the image his

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<sup>52</sup> The suppression of over-populated parliamentary chambers had been requested by the magistrates for some time, but in this context it was seen as an attack on the younger and more rebellious members of the chambers of *Enquêtes*. These members were also targeted in a measure that banned those with less than ten years service from attending plenary sessions of the *grand'chambre*, thus decreasing the likelihood of radical opinions being expressed to the assembled magistrates. The restriction on the right to remonstrate gave the magistrates only fifteen days to express their grievances over proposed laws. See Flammermont, *Remontrances*, ii.ix-x.

<sup>53</sup> His use of the phrase 'les rats et les grenouilles' above is one example but many others exist such as his repetition of the fact that he would prefer to serve a lion than 200 rats: D17128, D17129, D17199. Also, the expression 'la douane des pensées' is frequently used in reference to censorship: see, for example, D1291, D7592 and the article 'Autorité' in the *Questions sur l'Encyclopédie* (M.xvii.502). Another example would be his repeated references to humorous images from Racine's *Plaideurs*: D6965, D10995, D17161, D17162.

own in the second letter to Tronchin where his concern is keenly felt: 'Les tracasseries parlementaires ne font point de tort aux étoffes de Lyon, mais les horreurs germaniques font chez vous douze mille pauvres. C'est ainsi que les causes secondes agissent, et que les hommes font le mal qu'ils savent et celui qu'ils ne savent pas' (D7097).

We could summarise that in the mid-1750s all the remonstrances in the world, whether on papal bulls or playing cards, and all the public burnings, of pamphlets or pastoral letters, amounted to naught or little more in Voltaire's eyes. Until now these actions were the isolated acts of a court whose daily business had acquired an increasingly political colour. The parricidal intentions of one Robert François Damiens would change Voltaire's perception of the parlement's actions and their potential. Damiens's attack would polarise, for Voltaire, the landscape of French public life and put into sharp focus an elderly gentleman's vision of the problems that it faced. However, at the time of Damiens's attack in early 1757, a mention of a provincial parlement makes its first appearance in Voltaire's correspondence and it is therefore to these more local concerns that we shall first turn.

### ***Voltaire and his Local Parlements***

It is important to note that the Damiens affair had no apparent effect on Voltaire's view of the provincial courts. This earliest reference to them is evidence of the increased activity of the provincial parlements in the 1750s<sup>54</sup> as much as Voltaire's

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<sup>54</sup> Egret, *Louis XV et l'opposition parlementaire*, p.90.



increased interest in this activity, principally because of his permanent residence in France after his purchase of a life estate at Ferney.<sup>55</sup> As I have already mentioned, the resurrected theory of *union des classes* began to gain currency with the parlements and had started to appear in the remonstrances of the parlement of Paris and the provincial parlements by 1755-56.<sup>56</sup> Voltaire would denounce the basis of this parliamentary claim as unhistorical in the *Histoire du Parlement de Paris* (1769), a work which will be examined in detail in Chapter 4, but at the time of its espousal by the parlements in the 1750s there is no evidence of his reaction. While Voltaire may not have used the term himself until the early 1760s, it is evident that he was aware of a *de facto* unity in a letter to Tronchin at the start of the Besançon affair.<sup>57</sup> He states: 'Il paraît que le gouvernement emprunte beaucoup et que la nation paye les taxes avec une répugnance *que tous les parlements semblent favoriser* (my emphasis)' (D7227). However, his concerns echo those of the early 1750s, the effect

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<sup>55</sup> Pomeau notes, in his introduction to Voltaire's life during these years, how he 'cherch[ait] à s'établir une résidence définitive. Mais aucune de ces tentatives, avant 1759, ne réussira'. See René Pomeau, *VST*, vol.3, *De la Cour au jardin* (Oxford: VF, 1991), p.1. As I have mentioned, 1750 had seen the *philosophe's* exile from Paris until near his death and also his exile from France for most of the decade. This was a time of movement for Voltaire. His attraction to a philosopher-prince in the flesh was too strong to discourage him from the path to another royal court, even after his disappointment at Versailles. The relationship ended with the petty bitterness of an acrimonious divorce, Frederic securing the arrest of Voltaire in Frankfurt for the return of some personal belongings. Voltaire found a safe harbour in the tolerant city of Geneva, but his 'Délices' could not satisfy a deeper hope to return to Paris (Pomeau, *De la Cour au jardin*, p.343). When this was finally dashed, he settled for Ferney, 'base de son indépendance', where he could cultivate his garden.

<sup>56</sup> Paris: Flammermont, *Remonstrances*, ii.73; Provinces: see Egret, *Louis XV et l'opposition parlementaire*, p.76. The parlement of Grenoble espoused the theory in March 1755, that of Metz in March 1756, those of Aix and Rouen in June 1756.

<sup>57</sup> Julian Swann, 'Parlement and Political Crisis in France under Louis XV: The Besançon Affair', *The Historical Journal*, 37 (1994), 803-28. The provincial courts mounted strong opposition to the imposition of the second *vingtième* at the end of 1756. In Besançon, this situation was aggravated by the appointment of the local intendant, and former *procureur général* of the *Chambre Royale* (the court that had replaced the parlement after the exile of the magistrates to Pontoise in 1753), as first president of the parlement. This led to the contradictory situation in which the parlement produced remonstrances against the financial measures introduced by its own first president, in his role as intendant. After further remonstrances and a proposed *arrêt de défense*, which would have suspended the financial edicts, thirty of the *Bisontin* magistrates went on strike and were therefore exiled.

of public discontentment on the 'effets publics', but his awareness is broader. He comments on the need to send troops to Besançon and on the mood of the parlement of Paris, which he describes as 'plus effarouché que jamais'.

Voltaire continued to show an interest in the Besançon affair as the parlement of Paris intervened in order to secure the return of the exiled *Bisontins*: 'Parlement Paris refuse tout édit. - Veut que le roi demande pardon à parlement Besançon.' These elliptical comments appear in a strangely written letter to Elisabeth Gallatin (D7234) which Besterman has conjecturally dated April 1757 because of a reference to Besançon in the letter to Tronchin in the same month, as mentioned above (D7727). It is more likely that the letter is from March or April 1759. Besterman notes that the letter is dated 'Des Délices 1756' which he states is not correct. Voltaire was present at 'Les Délices' in March and April 1759 and, as shown by Swann, the Besançon affair first came to the attention of the Paris parlement in 1759.<sup>58</sup> Voltaire also refers to the affair in July and August 1760.<sup>59</sup> Voltaire refers disapprovingly to the parlement of Rouen twice in August 1760. He has heard of the sending of troops there but would prefer to see them sent against the Parliament of England.<sup>60</sup> He tells D'Argental that he 'désapprouve fort les tribunaux normands' (D9119) probably because of what Egret has described as 'son [the Rouen

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<sup>58</sup> Julian Swann, 'The Besançon Affair', p.813. The parlement of Paris first assembled to discuss the issue on 16 February 1759 on the request of the third chamber of *Enquêtes*. See Flammermont, *Remontrances*, ii.172.

<sup>59</sup> D9085, Voltaire to D'Alembert (24 July [1760]); D9164, Voltaire to Jacques Perneti (22 August [1760]).

<sup>60</sup> D9110 to comtesse de Lutzelbourg (2 August [1760]). The parlement had remonstrated to the king on 4 July 1760. It had refused to register the third *vingtième* and as a result the *maréchal* de Luxembourg was sent there to remove all traces of its opposition to the third *vingtième* from their registers. See Barbier, *Journal*, iv.355-6.

parlement's] acharnement [qui] mérita la gloire d'une double reprimand du Souverain.<sup>61</sup>

Voltaire's relations with the provincial parlements were naturally affected by his decision to settle in France. The purchase of Tournay and the seigneurial rights that accompanied it from Charles de Brosses, *président à mortier* of the parlement of Dijon, as well as the acquisition of Ferney and the inheritance of two legal cases attached to the land, could only force Voltaire to form relations and have business with the local magistracy and parlement. It is interesting, but perhaps not very surprising, to note that Voltaire's relations with the local magistracy were amicable and that he rarely expressed the negative opinions he seems to have reserved for the more distant parlements. Voltaire's wish to be 'in' with those in positions of importance and influence was not new. Through his association with *les grands* Voltaire was protected from the adverse effects of his own subversive behaviour and was provided with the necessary channels to achieve his wishes, whether for his interests as a *philosophe* or as an individual.<sup>62</sup> Voltaire's correspondence with the magistrates of Dijon falls into the latter category, that of his personal material interests.

One threat to Voltaire's interests came from the *curé* of the nearby parish of Moëns who had taken a case to the parlement of Dijon for the recovery of unpaid

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<sup>61</sup> Egret, *Louis XV et l'opposition parlementaire*, p.143. The parlement at Rouen remonstrated twice in favour of the Besançon magistrates, in July 1760 and January 1761, receiving two reprimands from the king for their efforts.

<sup>62</sup> See Jean Sareil, *Voltaire et les grands* (Geneva: Droz, 1978). Unfortunately, this work is not as helpful as the title suggests on the question of Voltaire's relations with *les grands*. Sareil's aim appears to be the rejection of accusations against the most famous citizen of the Republic of Letters that he was a sycophant and a flatterer.

tithes by the poor of Ferney. Voltaire, as *seigneur* of Ferney, intervened on behalf of the defendants and through his correspondence with *parlementaires* and the bishop of Annecy, among others, resolved the case. In relative terms, the justice of the parlement in this issue is more favourable than that of the church as Voltaire tells *président* de Brosses: 'Il est triste qu'un parlement ne soit pas le maître de la police, et qu'il soit de droit divin de s'enivrer et de gagner la chaudépisse le jour de st Simon, st Jude et de st André.'<sup>63</sup> President de Brosses, however, must not have been too convinced of Voltaire's faith in the *parlementaires* as the *philosophe* later requests that he recommend the least 'fripon' of his fellow magistrates to help with his affairs. He continues with what is at worst disingenuous flattery and at best a backhanded compliment, saying that he has heard that the Dijon *parlementaires* are 'moins [fripon] qu'ailleurs'. When the threat to his property is more dangerous, Voltaire is less than complimentary. The *baillage* of Gex threaten to force the sale of Voltaire's cattle in order to recoup the cost of a case against a Swiss named Panchaud, accused of attacking another with a sword on Voltaire's land. As *seigneur haute justicier*,<sup>64</sup> Voltaire was liable for the costs of the case but he claims that the land on which the incident took place falls within the *pays de Genève*. Voltaire writes to de Brosses on 24 March 1760 complaining of the treatment he received at the hands of the *baillage* of Gex which wanted to charge him over 557 livres for the cost

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<sup>63</sup> D8767, Voltaire to Charles de Brosses, baron de Montfalcon (20 February [1760]).

<sup>64</sup> *Seigneurie* was the last, if substantial, vestige of feudality, which allowed certain rights associated with the ownership of land, including the responsibility to dispense justice in the first instance for crimes committed on the land. As these rights could be obtained through simple purchase, a *seigneur* was not necessarily a noble. According to Fernand Caussy, *Voltaire: Seigneur de village* (Paris: Hachette, 1912), Voltaire's lands at Tournay and Ferney enjoyed numerous benefits: 'deux seigneuries avec cens, dîmes inféodées, hommes, hommages, fiefs, emphytéotes, domaines directs, et l'*omnino* de juridiction haute, moyenne et basse avec le dernier supplice!' (p.3).



of justice it had dispensed in his name. He concludes that the *procureur*, whom the *président* recommended, is making a mockery of him and that ‘Messieurs de Dijon sont des goguenards’ (D8815). Voltaire is finally successful in his claims but the substance and results of Voltaire’s dealings with the parlement are less important than the fact that he had such access to those who dispensed justice which helped him to achieve his aims in a given situation.<sup>65</sup>

These daily concerns show a much different attitude to the *parlementaires* than Voltaire’s more general pronouncements on the magistrates and the courts they populated. In fact, the two areas could almost be looked at in isolation. Take for example the following two pronouncements made towards the end of my current period of focus. In one, a letter to Choiseul dated 13 July 1761 by Besterman, Voltaire uses the term *classes des parlements*, which, rather than being an acceptance of their pretensions to unity is instead a recognition of the threat posed by the parlements’ acting in unison. Referring to the changing power structures in Europe, Voltaire states that France ‘restera toujours un beau royaume, et redoutable à ses voisins, à moins que les classes des parlements n’y mettent la main’ (D9894). In another, a letter to Turgot at the start of the 1760s, he compliments his correspondent on his recent appointment as intendant of Limoges as ‘il n’y a qu’un intendant qui puisse être utile’.<sup>66</sup> He compares the good work of an intendant to the parlements’

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<sup>65</sup> Even the marquis de Courteilles (*intendant des Finances*) and Jean François Joly de Fleury (*conseiller d’état*) became involved in determining the outcome of the Panchaud case. See D8821, D8833, D8890, D9096.

<sup>66</sup> D9986, Voltaire to Turgot (2 September 1761). Of course, we should be careful not to rely too heavily on this statement as a preference for the modern, centralised, reforming and ‘absolute’ administrative monarchy that some have seen develop during the reigns of Louis XIV and Louis XV. (Michel Antoine typifies this view in ‘La monarchie absolue’). As *seigneur de village* at Ferney, Voltaire was just as likely to assert that ‘si les pauvres seigneurs châtelains étaient moins dépendants

only function - to dispense justice —, which, he asserts, is often a great evil. Also, their remonstrances are not always good as they discourage the nation and encourage its enemies. By 1762, Voltaire has started to see the actions of all the parlements as a threat to the nation, while on a local and personal level, this threat is ignored for the sake of good relations with those in positions of power and influence. However, in order to properly understand Voltaire's view of the parlements as expressed to Choiseul and Turgot in 1761, his comments must be seen in the light of the Damiens affair.

### ***The Damiens Affair and its Effect on the Philosophes***

Damiens's attempt on the king's life was difficult for his contemporaries to understand, all accepting that he must have acted as the agent of another.<sup>67</sup> Damiens's confessions tended to confirm a motivation which his judges would have preferred not to hear. He claimed that religion and, more specifically, the refusal of sacraments had motivated him to 'touch' the king and make him heed the parlement's *remontrances*. More worryingly for the *parlementaires*, he claimed that he had overheard inflammatory language against the king's handling of the question of the refusal of sacraments in the houses of judges for whom he had worked as a domestic servant. His judges gave no consideration to these motives, as they believed his low birth precluded anything other than purely material motivation.<sup>68</sup> Voltaire

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de nosseigneurs les intendants, ils pourraient faire autant de bien à la France que nosseigneurs font quelquefois de mal'. Cited in Caussy, *Voltaire: Seigneur de village*, p.132.

<sup>67</sup> Dale Van Kley, *The Damiens Affair and the Unravelling of the Ancien Régime 1750-1770* (New Jersey: Princeton University Press, 1984) p.65-8.

<sup>68</sup> Dale Van Kley, *The Damiens Affair*, p.36.



learns quickly of the incident from the comte D'Argenson, who also informs him of Damiens's religious motivation (D7114). At first he wonders who is to blame. 'Esce le jansénisme qui a produit ce monstre? esce le molinisme?'<sup>69</sup> That same day, to Thieriot, he is unequivocal: 'Ce sont là les abominables effets de la bulle unigenitus, et de graves impertinences de Quenel, et de l'insolence de le Tellier. Je n'avais cru les jansénistes et les molinistes que ridicules, et les voilà sanguinaires, les voilà parricides!' (D7118). Unlike Damiens's judges, Voltaire has no doubts about his religious motivation, nor does he care where this motivation was nurtured. The cause is fanaticism, a result of the religious controversies surrounding *Unigenitus*, and all those involved are guilty.

By 16 January, Voltaire has realised the frightful potential of these conflicts for both public life and the cause of those who would call themselves *philosophes*. He expresses his fear to D'Alembert that 'Pierre Damiens ne nuise beaucoup à la philosophie'.<sup>70</sup> Voltaire's prescience would be confirmed by his correspondent in April: D'Alembert informs Voltaire of a new *déclaration* which prescribes the death penalty for those who publish writings tending to attack religion or royal authority.<sup>71</sup> This is of particular importance to D'Alembert who, with the contributions of Voltaire, was working on the seventh volume of the *Encyclopédie* at this time. The *déclaration* was confirmed by the parlement on 21 April 1757. Damiens's attack also confirms to Voltaire that his attitude to the conflicts, hitherto the natural reaction of a *philosophe* to a debate over dogma, has been the correct one. He expresses this

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<sup>69</sup> D7117 Voltaire to Charles Jean François Hénault (13 January 1757).

<sup>70</sup> D7122, Voltaire to D'Alembert (16 January [1757]).

<sup>71</sup> D7247, D'Alembert to Voltaire (26 April [1757]). See Barbier, *Journal*, iv.218-19: 'Cette loi fait voir en même temps qu'on n'est point incertain sur la cause des malheurs qui sont arrivés.'

feeling to Cideville: 'Si l'on avoit fait des petites maisons pour le clergé et le parlement et qu'on eût geté sur leurs querelles tout le ridicule qu'elles méritent il y aurait eu moins de testes échauffées et par concéquand moins de phanatiques.'<sup>72</sup>

There is no sense of smugness in Voltaire's comment to his niece Marie Elisabeth:

'On ne doit pas me reprocher du moins d'avoir tant écrit contre le fanatisme'.<sup>73</sup>

Indeed, there is the germ of the 'man of Calas' in what follows it: 'Je n'en ai pas encore assez dit'. Rather than say something new at this stage, Voltaire decides that a showing of *Mahomet* (1742) – an earlier drama attacking fanaticism - will encourage the end of fanaticism and the beginning of the reign of 'la raison et la douceur des mœurs'.<sup>74</sup> Voltaire's letter to the comtesse de Lutzelbourg is demonstrative of his new focus. He explains how Damiens 'est un chien qui aura entendu aboyer quelques chiens des enquêtes, et qui aura pris la rage.' He continues, 'C'est ainsi que le fanatisme est fait' (D7130). Fanaticism is no longer simply the direct result of religious conflicts. It has mutated, inside the walls of the *Palais de Justice*, into a contagious evil and a discourse which is the antithesis of Voltaire's beliefs. For this reason, as Voltaire suggests to D'Alembert, the *philosophes* must unite against fanatics (D7139).

Damiens's attack convinced him to continue writing against fanaticism, the engine of which was now to be found inside the *Palais de Justice* as much as in the teachings and preaching of Jesuits and Jansenists and the conflicts that resulted.

Voltaire was not alone in holding this opinion. In fact, D'Alembert went further on

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<sup>72</sup> D7123, Voltaire and Mme Denis to Cideville ([16 January 1757]).

<sup>73</sup> D7124 (16 January 1757).

<sup>74</sup> D7129, Voltaire to D'Argental (20 January 1757). *Mahomet* had not be played in Paris since 19 June 1756. It was played again in Paris on 18 May 1757.

hearing that the parlement was considering denouncing his article from the *Encyclopédie* entitled 'Genève', describing the court as 'plus intolérant et plus ridicule encore que le clergé qu'il persécute' (D7573). In spite of the official protection which the *Encyclopédie* had received since its inception, it continued to suffer criticism from ecclesiastics for reasons of impiety. After the appearance of the article 'Genève' in volume seven of this work, attacks on it increased, not least because of the international embarrassment caused by what was viewed as D'Alembert's criticism of the Genevan clergy.<sup>75</sup> But the attack on the king, the potentially fatal manifestation of sedition in the kingdom, sent all the authorities clamouring for a culprit. After the government introduced draconian regulations on impious and seditious works,<sup>76</sup> the clergy and the parlement (who had fanned the flames of the controversies that had inspired Damiens) tried to outdo each other in their responses to heterodoxy. The *philosophes* became their whipping boys. The archbishop of Paris, in exile for his failure to respect the Law of Silence on *Unigenitus* and refusal of sacraments, castigated Helvétius's *De l'esprit* (22 November 1758). The Sorbonne and the Holy See publicly denounced the same work in January 1759. The parlement of Paris did not delay in following the clergy's lead and on 6 February 1759 it condemned, among other works, the *Encyclopédie*, Helvétius's *De l'esprit* and Voltaire's *Poème sur la religion naturelle*. Unlike Helvétius, Voltaire had the tact not to place his name under the title of his work allowing him to claim that 'le poème tronqué de la religion naturelle est une

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<sup>75</sup> Frank A. Kafker, 'The Encyclopedists as a group', *SVEC* 345 (1996). D'Alembert had 'sought to praise Genevans by saying among other provocative things, that several of their pastors were closer to being deists than sixteenth-century Calvinists' (p.107).

<sup>76</sup> The *déclaration* of 16 April 1757 threatened those who wrote or printed works contrary to religion or the state with capital punishment.

mauvaise brochure dans la quelle l'auteur [of the *Poème sur la loi naturelle*] est estropié'. This gave him the freedom to counterattack the enemies of the *Encyclopédie* (and therefore of *philosophie*), a task that saw the emergence of numerous works in 1759 and 1760, such as the *Relation de la mort du jésuite Berthier* (1759), *Socrate* (1759), *Dialogues chrétiens ou Préservatif contre l'Encyclopédie*, *Le Pauvre Diable*, *Le Russe à Paris*, *La Vanité*, *Les Quands*, *les Qui...Les Ah!Ah!* (all 1760).

The day after the parlement's condemnation of the *Encyclopédie*, Voltaire, as yet unaware of the court's actions, relates to Thieriot what he has heard regarding the Jesuits' involvement in the condemnation of *De l'esprit*. He requests the name of the judge who will decide the fate of the *Encyclopédie* and fears a similar injustice to that which was dealt to Galileo by the Inquisition. The motif of the persecuted *philosophe* is one that would remain and inspire the tragedy *Socrate*. Socrates symbolised perfectly the victimisation of philosophers by intolerant fanatics and was particularly pertinent in 1759 with the condemnation of the *Encyclopédie* and the circulation of Palissot's *Petites lettres sur les grands philosophes*, and Abraham Chaumeix's *De l'esprit, Préjugés légitimes contre l'Encyclopédie*. The version of 1761 satirised Berthier, editor of the Jesuit *Journal de Trévoux* and Chaumeix, presenting them as *gazetiers de controverse* next to the persecuting high priest Anitus, a thinly veiled Omer Joly de Fleury, whose *réquisitoire* had denounced the *Encyclopédie* in parlement.<sup>77</sup> Chaumeix is again the target in *Le Pauvre Diable* (à *Maître Abraham Chaumeix*). Voltaire presents him as a young man looking for the right path to follow in life. After flirting with an army career he turns to the law and

it seems they are well met: 'Eh bien, la robe est un métier prudent; / Et cet air gauche et ce front de pédant / Pourront encor passer dans les enquêtes: / Vous verrez là de merveilleuses têtes!'<sup>78</sup> Another victim of Voltaire's satire is Lefranc de Pompignan, who in his *discours de réception* at the *Académie française* (10 March 1760) criticised the *Encyclopédie*. The result is an onslaught by the *philosophes* to which Lefranc responds by presenting a *mémoire* to the king bemoaning the libels against him. The target of a mediocre poet pestering the king with such problems is almost too easy for Voltaire. His verse hardly requires his talent in the genre, and so simplicity suffices: 'Son peuple à soulager, ses amis à défendre, / La guerre à soutenir; en un mot, les bourgeois / Doivent très-rarement importuner les rois.'<sup>79</sup>

One could be forgiven for assuming that this was another of Voltaire's *literary* quarrels, defined, like others<sup>80</sup>, by Voltaire's ruthlessness in dealing with his literary enemies. His attack on the enemies of the *Encyclopédie* differs. First, it lacks the personal bitterness that so characterises Voltaire's engagement with an avowed enemy. Second, the subjects of his satire, and here I mean specifically those who criticise the *Encyclopédie*, namely, Berthier, Lefranc de Pompignan, Palissot and Chaumeix, are treated not so much as individuals acting according to their will, but rather as representative of a problem facing French society and especially the *philosophes*. Whereas Damiens's attack on the king awoke in Voltaire a knowledge of the potentially lethal effects of fanaticism and an awareness of the origins of this evil, the conflicts that surrounded the *Encyclopédie* over 1759 and 1760 - instigated

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<sup>77</sup> Article 'Socrate', in *Dictionnaire de Voltaire*, p.223.

<sup>78</sup> *Le Pauvre Diable*, M.x.101.

<sup>79</sup> *La Vanité*, M.x.116.

<sup>80</sup> With Desfontaines, Fréron or Rousseau, for example.



by obscurantist *parlementaires* in the wake of the Damiens affair, it must be remembered - made him realise that simply writing against fanaticism was not enough. The sort of attitude that engendered fanaticism and allowed it to flourish was all-pervasive in French society. The pessimism that resulted from such a realisation can be seen in many of Voltaire's letters of 1759.

To Frederic, Voltaire talks of the 'impertinentes remontrances' of the parlement and the folly that rules in Paris (D8283). Two days later he writes to D'Alembert thanking him for his four-volume *Mélanges de littérature, d'histoire, et de philosophie* but has to question his assertion that improvements in the sciences are owed to the French. This same pessimism is evident in his feeling that 'Ce n'était pas en France qu'il fallait faire [l'encyclopédie]' (D8286). That Voltaire sees all the problems as related is evident in his comments to Thieriot the following day: 'Frère Berthier, frère Abraham Chaumey et leurs semblables, auront beau crier que tout est perdu si on se met à avoir le sens commun, les cabales les plus infâmes, auront beau exciter le parlement de Paris, à faire des remontrances au Roy, et à faire brûler L'Encyclopédie' (D8288). Two letters to D'Argental towards the end of 1759 show his understanding of the affairs affecting France and hence the reasons for his pessimism. In the first he addresses paragraphs to different public figures. To the abbé Chauvelin, he tells of the uselessness of the parlement's remontrances abroad and adds: 'Il est triste d'avoir la guerre contre les anglais, mais puis qu'ils nous battent, il faut bien que nous payons l'amande.' He also addresses Jean Omer Joly de Fleury whose speech against the *Encyclopédie* on the day it was denounced by the



parlement would not be forgotten by Voltaire.<sup>81</sup> He is merciless towards the *avocat général*: ‘On se moque de vous et de vos discours et de vos dénonciations. Mon Dieu que cela est bête!’ Under the heading of his final paragraph, entitled ‘Somme totale’, he mixes his pessimism with some hope: ‘Le sens commun paraît exilé de France, mais il réside chez mes anges avec la bonté et l’esprit’ (D8517). In the second, a few short sentences convey his pessimism over the state of France resulting from his dismay at the continuing war. This is aggravated by what he perceives as the futility of the parlement’s behaviour and tinged with bitterness at the attack on the *Encyclopédie*: ‘On me mande qu’on est tout consterné et tout sot à Paris. On paye cher les malheurs de nos généraux. Mais le parlement sur les conclusions d’Omer Joli raccomodera tout en faisant brûler de bons ouvrages’ (D8554).

Voltaire’s pessimism is borne out in his works of 1760, in particular *Le Russe à Paris*.<sup>82</sup> A Russian arriving in Paris, aware of the city’s illustrious history, is surprised that no traces of this heritage remain: ‘Le temps doit augmenter la splendeur de l’Etat; / mais je le cherche en vain dans cette ville immense.’ The visitor asks his Parisian host what remains of Paris’s former splendour, to which the latter replies, ‘Mais...nous avons souvent de belles remontrances.’ The Russian, speaking with the naivety of a *Candide*, tells his host of the English, who are spending all their treasures on the war with France; France needs ‘des matelots, des vaisseaux, des soldats.’ The Parisian tells his uninformed interlocutor that his countrymen have ‘plus grandes affaires’, such as *Unigenitus*, *billets de confession*,

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<sup>81</sup> D9477 (17 December 1760) Voltaire writes to D’Argental that he will never forgive Joly de Fleury for what he has said against the *philosophes*.

<sup>82</sup> M.x.119-31.

convulsions, Lefranc de Pompignon and Palissot. He is surprised that 'la gazette prudente' (the Jansenist *Nouvelles Ecclésiastiques*), the *Journal Chrétien* and the *Journal de Trévoux* have not crossed France's borders. Voltaire's letters confirm this disenchantment with French society. He writes to the duc de Richelieu of 'ce pauvre siècle, de ce siècle des billets de confession, des querelles pour un hôpital, des refus d'un parlement de rendre justice, des assemblées des chambres pour condamner un dictionnaire qu'on n'a pas lu, de ce beau siècle où en trois ans de temps l'état a été ruiné quand nos armées devraient vivre aux dépens de l'Allemagne, etc. etc. etc. etc. etc. etc' (D8721). The condemnation of the *Encyclopédie* is simply a culmination of the folly that has characterised and dominated the century and at every stage the parlement has been involved.

Throughout 1760, Voltaire continued to lament the pitiful century.<sup>83</sup> It is not unusual for people to pour scorn over the society in which they live (indeed, for some it is a career). The author of the *Henriade* and the *Siècle de Louis XIV* could rightly be accused of nostalgia for the golden ages of French monarchy, particularly now as he faced old age. However, it is clear that Voltaire's pessimism and disenchantment are firmly grounded in contemporary issues. Some may question Voltaire's attachment and contribution to the *Encyclopédie*<sup>84</sup> but there is no doubt that its condemnation and the subsequent diatribes and satires against

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<sup>83</sup> D8813, Voltaire to Octavie Belot (24 March 1760): Voltaire says that Paris is only good for 'les fermiers généraux, les filles et les gros bonnets du Parlement, qui se donnent le haut du pavé.' His sentiments are repeated to his niece Marie Elisabeth in D8861 (19 April 1760). The litany of problems expressed to Richelieu in D8721 is repeated to Tronchin in D8956 (2 June [1760]).

<sup>84</sup> Marta Rezler re-assesses his contribution before 1754 in 'Voltaire and the *Encyclopédie*: a re-examination', *SVEC* 30 (1964), p.147-87. She says that the stereotype is of a Voltaire who 'is shown as secretly despising the encyclopaedic enterprise, ignorant of its editors, yet overwhelmed with joy when the most glaringly insignificant allocation of work is made to him' (p.150).

*encyclopédistes* and *philosophes* were a source of great dismay to him.

Notwithstanding his inclination towards a dramatic presentation of events, Voltaire's words to D'Alembert in April 1760 are those of a depressed man: '[J]'avoue que je ne suis pas mort, mais je ne peux pas dire que je sois en vie; Berthier se porte bien, et je suis malade; Abraham Chaumeix digère, et je ne digère point: aussi ma main ne vous écrit pas, mais mon coeur vous écrit; il vous dit qu'il est sensiblement affligé de voir les fanatiques réunis pour accabler les philosophes, tandis que les philosophes divisés se laissent égorger les uns après les autres.' He continues: 'La persécution éclate de tous les côtés dans Paris; les jansénistes et les jésuites se joignent pour égorger la raison' (D8872). Voltaire had always been cynical about the religious quarrels in which the parlement had played a leading role. The Damiens affair brought the parlement's very real and dangerous influence to Voltaire's attention. The condemnations of the *philosophes* after that of the *Encyclopédie* confirmed to him a single enemy in the form of a pious trinity, comprising Jansenists, Jesuits and the parlement of Paris. This enemy was not only his but also the state's. As he tells D'Alembert: 'Il n'y a rien à craindre du ministre des affaires étrangères, qui méprise autant que nous le fanatisme moliniste, le fanatisme janséniste, et le fanatisme parlementaire' (D8872).

### ***Philosophic Tactics***

Voltaire's genuine belief that the crown shared his disdain for *parlementaire* fanaticism represents a changing perspective in his letters. Broadly speaking, before the Damiens affair, the parlement's actions were not seen as very relevant unless

they affected the daily business of people in the state, for example, at the time of the parlement's exile in 1753-54. Moreover, the conflicts between parlement and crown were perceived by Voltaire as less important in the light of the war in Europe. Ironically, the opposite would prove to be true. The Damiens affair and the condemnation of the *Encyclopédie* focussed Voltaire's attention on the perilous state of French society, but he would soon realise that another real danger was outside the state and was being supported, albeit indirectly, by one of his fanatical enemies. The parlement's refusal to register taxes would directly affect the country's ability to defend itself against its enemies. In a letter to Louise Florence Pétronille de Tardieu, he wonders, 'Mais avec quoi ferons nous cette campagne si le parlement ne veut pas que le Roy ait de quoi se déffendre?'<sup>85</sup> The increasing militancy of the parlement of Paris and the more vocal provincial parlements has made the former's potential refusal of the king's wishes a scenario Voltaire can envisage without shock or surprise. No longer are the parlements simply a hindrance when they interrupt justice from time to time and irritate the king with remonstrances; no longer do the parlements affect only the running of the country; they also affect, more importantly, its security and France's ability to wage war.

By August 1760, the parlements are presented continually as disloyal and a hindrance to the war effort. At the end of a letter to the intendant Jacques Bernard Chauvelin, Voltaire adds a message for his relative, the leading Jansenist *parlementaire*, abbé Chauvelin, imploring him to 'considérer que toutes les remonstrances du monde ne serviront pas à nous donner de l'argent, des vaisseaux et

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<sup>85</sup> D8782 (1 March 1760)

des lieutenants généraux dont nous avons besoin.’<sup>86</sup> The change in emphasis is made clear to Mme Du Deffand: [S]ans Palissot, Pompignan et Fréron on ne parlerait que de remontrances; je vous avoüe que je ne les aime pas dans ce temps cy, et que je trouve très impertinent, très lâche et très absurde, qu’on veuille empêcher le gouvernement de se déffendre contre les Anglais.’<sup>87</sup> As disappointing as the attacks on the *Encyclopédie* and the *philosophes* were, Voltaire realises that it has all been a distraction from issues of real importance. He elaborates the following day to François de Chennevières, contrasting the parlement’s unhelpful remontrances with his belief ‘que quand on a la guerre avec les Anglais, il faut donner la moitié de son bien pour déffendre L’autre.’<sup>88</sup>

Voltaire tells his fellow *philosophe* Helvétius of the approach that should be adopted by people like them. Along with the capital advice that no work should appear bearing one’s name (a mistake Helvétius made to his detriment with *De l’esprit*), Voltaire says that their aim should be to enlighten the ‘gens du monde’ as opposed to labourers. He also informs the younger *philosophe* of the importance of their loyalty to the king, a philosophic characteristic that would go some way towards combating their vilification at the hands of the fanatical trinity: ‘Le Roy doit sçavoir que les philosophes aiment sa personne et sa couronne, qu’ils ne formeront jamais de cabale contre lui, que le petit fils de Henry 4 leur est cher, et que les Damiens n’ont jamais écouté des discours affreux dans nos antichambres. Nous donnerions tous la moitié de nos biens pour fournir au Roy des flottes contre

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<sup>86</sup> D9112 (10 August 1760)

<sup>87</sup> D9121 (6 August 1760).

<sup>88</sup> D9134 (11 August 1760).



l'Angleterre; je ne sçais si ses tuteurs [the parlement] en feraient autant.'<sup>89</sup> He repeats this message to the same correspondent in December adding that the parlements want to 'renouveler les temps de la fronde.'<sup>90</sup>

While there is no doubt that Voltaire continues to pour scorn over the parlement, its members and its actions,<sup>91</sup> the last of these has forced him to pay closer attention and made him realise the danger they pose for the state. This may explain his unusual interest in affairs of parlement at the end of 1760. He tells the D'Argentals how he waits 'avec impatience ce que adviendra dans votre tripot de la convocation des pairs'.<sup>92</sup> While nothing did come of it, except more remonstrances, it could only contribute further to Voltaire's view of the *parlementaires* as dangerous and intolerant fanatics who were unhelpful and disloyal in the context of public affairs and the European war.

The start of 1761 sees Voltaire in militant form promising the D'Argentals that he will die braving 'tous ces ennemis du sens commun'.<sup>93</sup> If they have the power to persecute him (which he doubts), he will go abroad where he has forty-five thousand livres of *rentes*. I have mentioned previously the importance of money to Voltaire; for him it equalled one thing: freedom. We cannot underestimate the importance of this peace of mind in facilitating the campaigns of his later, and

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<sup>89</sup> D9141 (13 August [1760]).

<sup>90</sup> D9460 (12 December [1760]).

<sup>91</sup> In D9121, Voltaire to Mme Deffand (6 August 1760), he uses the term 'rats et grenouilles' again. The number of criticisms of Omer Joly de Fleury, *président à mortier*, in Voltaire's letters reaches double figures between 1759 and 1761.

<sup>92</sup> The Besançon affair was dragging into another year with the parlement's attempt to convoke the peers on 9 January. The latter declined the invitation out of loyalty to the king.

<sup>93</sup> D9582 (30 January 1761).



arguably most active, years. Nor can we discount Voltaire's feeling that death would soon overtake him. He expresses this to D'Alembert at the end of a most spirited letter, hoping to see the *philosophe* before he dies. The same letter shows him waxing potent in denouncing the enemies of the *philosophes*: '[F]aut il qu'une troupe de convulsionnaires soit toute puissante? et ne doit on pas rougir quand on est homme, de ne pas sonner le tocsin contre ses ennemis de l'humanité?' More specifically, on the *parlementaires*, whose control over Paris he describes as 'la tyrannie des 180', he states, 'vos pédants de Paris qui ont acheté un office [...] ces insolents bourgeois moitié fanatiques moitiés imbécilles ils ne peuvent que faire du mal.' Voltaire's advice to D'Alembert is simple: 'Dittes hardiment et fortement tout ce que vous avez sur le cœur. Frappez, et cachez votre main.'<sup>94</sup> This was the uncensored version of Voltaire's plan for philosophic guerrilla war. As we have seen above, the language that he uses in addressing Choiseul and Turgot (D9894 and D9986) two months later is less vitriolic, more measured, yet still retains the nugget of his message: France will be fine as long as the parlements are not allowed to interfere, as their influence threatens the nation. Voltaire's campaigns over the 1760s would require all the energy of that spirited *philosophe* who says 'Dittes hardiment et fortement tout ce que vous avez sur le cœur'.

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<sup>94</sup> D9771 (7 or 8 May [1761])

## **Part Two**

## CHAPTER 3

### Voltaire and the Parlements, 1762-69

Of all the images of Voltaire, that of the man of action is perhaps the most enduring, first, because of its historical validity - Voltaire was famously welcomed back to Paris after his long exile as the 'man of Calas' – but also, undoubtedly, because of its pleasing simplicity. Voltaire, first among the *philosophes* in the vanguard of 'Enlightenment', a champion of human rights and corrector of human wrongs against the barbaric and backward authorities of the *ancien régime*; this is a simple and powerful image and therefore attractive to those whose interest it serves. The collective memory prefers heroes and villains, and in Voltaire's campaigns in favour of Jean Calas, Pierre Paul Sirven and the chevalier de La Barre, the *philosophe* is a hero, while the perpetrators of the injustices against these individuals – the parlements – are the villains. Though Voltaire has been celebrated and villified in

equal measure,<sup>1</sup> it is the image of the ‘man of action’ which prevails among those who celebrate him. Victor Hugo wrote on the centenary of Voltaire’s death that he ‘seul déclara la guerre à cette coalition de toutes les iniquités sociales, à ce monde énorme et terrible’; Michelet was no less convinced of his achievements: ‘Tu défends Calas et La Barre, tu sauves Sirven, tu brises l’échafaud des protestants.’<sup>2</sup>

Contemporary critics have praised him in similar terms. Guy Chaussinand-Nogaret has written of how ‘son activité et l’enthousiasme de son engagement, son opiniâtreté dans l’exécution, n’étaient pas inférieurs aux exigences des causes qu’il défendait, celles des droits de l’homme, notion étrangère à l’Ancien Régime’. This he contrasts with the justice system: ‘A l’excessive sévérité des sentences, la précipitation ajoutait souvent l’erreur judiciaire et, lorsque la foi s’en mêlait, le fanatisme brouillait les indices, de simples présomptions devenaient des preuves, et lorsque la mauvaise foi des magistrats était soutenue par la ferveur populaire, l’accusé, privé de tout moyen de défense, n’avait aucune chance d’échapper au verdict le plus rigoureux.’<sup>3</sup>

The power of this image is enough to obscure the subtleties present forcing the most erudite critics and historians to substitute general comments for genuine enquiry. In the most recent biography of Voltaire, under the stewardship of René Pomeau, we are told that ‘Voltaire est l’ennemi du parlement de Paris pour les raisons essentielles que nous avons dites.’<sup>4</sup> Returning to the earlier mention of these reasons, which are also used to explain Voltaire’s writing of the *Histoire du parlement de Paris* (1769), we read that ‘Il demeure traumatisé par la sinistre affaire

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<sup>1</sup> As shown by Raymond Trousson, *Visages de Voltaire, XVIIIe-XIXe siècles* (Paris: Honoré Champion, 2001).

<sup>2</sup> Cited in Pierre Sipriot, *Voltaire ou la liberté de l’Esprit* (Paris: Rocher, 1989), p.128, 131.

<sup>3</sup> *Voltaire et le Siècle des Lumières* (Brussels: Editions Complexe, 1994), p.115, p115-16.

du chevalier de La Barre' and that 'Les circonstances affreuses du supplice infligé au jeune homme restent présentes dans son imagination'.<sup>5</sup> Peter Gay's older but still relevant analysis of Voltaire's political thought focuses on Voltaire's pragmatic political relativism. Unsurprisingly, in an attempt to tie together the threads of the loosely defined political system of a thinker who rejected system building, Gay states that Voltaire's 'enmity for the parlements antedated the execution of Jean Calas' - he recognises the obvious assumption that could be made - 'and was political opposition more than abhorrence'.<sup>6</sup> Nuci Kotta, who also underlines Voltaire's political opposition to the courts, explained that there were also 'well known' reasons for it 'such as the condemnation of Calas by the *parlement de Toulouse*, the rejection of La Barre's appeal by the *parlement de Paris*, the ritual burning of books, the opposition to inoculation against smallpox, and so on.'<sup>7</sup> Likewise, the article 'Histoire du Parlement de Paris' in the *Dictionnaire général de Voltaire* (p.618-23) mentions his ambivalent attitude to the court in that work because it is a 'rempart du gallicanisme et adversaire des jésuites, mais également foyer du jansénisme convulsionnaire et bourreau de Jean Calas et du chevalier de la Barre' (p.622).

In this chapter, rather than accept the historical model of Voltaire *versus* the parlements of France and rely on the cases of Calas or La Barre as proof of Voltaire's opposition to them, I shall examine Voltaire's interaction with the courts

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<sup>4</sup> René Pomeau, *VST*, vol.4, «Ecrasez l'Infâme» (Oxford: VF, 1994), p.400.

<sup>5</sup> Pomeau, «Ecrasez l'Infâme», p.385. To these are added, 'Incertitude de statut, et à partir de là usurpations, prises de position séditionnelles, sentences iniques: voilà ce que ne manquera pas de faire ressortir une histoire du parlement de Paris depuis ses origines.' (p.386). Similarly, according to Chaussinand-Nogaret, Voltaire's hatred for the courts is 'justifiée par le fanatisme qui dévoyait les jugements de magistrats sourds à la pitié et victimes de leur intolérance' (*Voltaire et le Siècle des Lumières*, p.103).

<sup>6</sup> Peter Gay, *Voltaire's politics*, p.315.

<sup>7</sup> Nuci Kotta, 'Voltaire's *Histoire du parlement de Paris*', *SVEC* 41 (1966), p.224.

as a result of these cases and analyse these interactions as elements contributing to developing view of the courts which did not simply begin with doctrinal opposition and end with abhorrence at the fate of La Barre and other victims of the French criminal justice system. I have already examined the slow development of this attitude since the Regency, which the aforementioned critics have not done. Here, I shall also look beyond these *causes célèbres* to other situations in which Voltaire came into contact with the parlements, including a focus on his own locality. The ending of the Seven Years' War (10 February 1763) and the expulsion of the Jesuits from France (November 1764) during the period on which this chapter focuses – from the execution of Calas to the writing of the *Histoire du Parlement de Paris* – would change the political dynamic in French society and therefore could not help but effect a change in Voltaire's view of the parlements. These various elements would all contribute, in the context of Voltaire's continuous work on the history of France, to the emergence of a controversial history of the principle judicial court of the kingdom. However, before I look at these interactions it is necessary to examine their historical context by briefly discussing the issues that agitated the increasingly vocal parlements of France from 1762 to 1769.

### ***Parlementary Opposition in the Provinces***

The Treaty of Paris, which brought an end to the Seven Years' War and the loss of France's major colonial outposts, could not bring an end to the fiscal demands that French subjects had endured during the war period. *Contrôleur général* Henri Bertin's decision to maintain high taxes in order to help the state recover could only



infuriate the parlements who had been so vigorous in their opposition to these measures and hopeful that with the achievement of peace some respite or even relief could have been attained.<sup>8</sup> The *lit de justice* of 31 May 1763 was designed to bring some order to the recovery with the establishment of a fund for the repayment of the national debt. The intention was also to secure the registration of the edict and *déclaration* of April 1763, the former abolishing the third *vingtième* (created in 1760) and double *capitation*, and the latter re-establishing the *centième denier* on *immeubles fictifs*, a measure particularly distasteful to venal office-holders.<sup>9</sup> The king welcomed the parlement's intention to produce remonstrances (for we must remember that the process was not an affront to royal authority but part of the customary practice of the sovereign courts<sup>10</sup>) which requested a fixed term to be put on the first *vingtième* and the suppression of the second *vingtième* and *centième denier* (nor must we forget that a fixed tax on income was then an extraordinary burden). The magistrates also denounced the *lit de justice* as an attack on the fundamental laws and produced further protests in August and September.<sup>11</sup>

More vociferous protests were made by some of the provincial parlements where registration of these financial measures was turning out to be far from a formality. The parlements at Pau and Bordeaux saw the forced registration of the edict and *déclaration* of April 1763, while at Grenoble, Rouen and Toulouse, grave disobedience on the part of the *parlementaires* resulted in moral victories for the

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<sup>8</sup> Shennan, *The Parlement of Paris*, p.313; Swann, *Politics and the Parlement of Paris*, p.218.

<sup>9</sup> The *centième denier* was a 1% tax on the transfer of property which would therefore have been payable on the sale or transfer by succession of judicial offices, which were *immeubles fictifs*, intangible realty.

<sup>10</sup> On this occasion the king stated, 'Je recevrai toujours favorablement ses [the parlement's] remontrances quand elles auront pour objet le bonheur de mes peuples'. See Flammermont, *Remonstrances*, ii.322.

parlements of Dauphiné, Normandy and Languedoc respectively. The parlement at Grenoble passed an *arrêt de défense* forbidding co-operation with the edict and *déclaration* which the lieutenant general, the marquis Chastellier-Dumesnil, had attempted to forcibly register at the head of a large military contingent. The parlement decreed his arrest and he was eventually recalled to Versailles in order to extricate him from an embarrassing confrontation between royal authority and the parlement. Similarly, at Toulouse, the commander-in-chief of the province (the duc de Fitz-James Berwick) and first president of the parlement (François de Bastard) were both recalled following their efforts to impose the royal will in Languedoc. At Rouen, after much protest and the resignation of the *parlementaires*, a silence was imposed, and before the end of 1763 Normandy was granted a reduction in its *don gratuit* contributions (the payment to the crown agreed by the *pays d'état* at their respective assemblies). It could be concluded that this concerted provincial protest was the coming to fruition of the theory of *union des classes* which stated that all the parlements of France formed part of one indivisible institution. However, the *fact* of this new provincial disobedience resulted in more damage to the theory than royal rebuttals ever could. The decree of *prise de corps* issued by the parlement of Languedoc against the commander-in-chief of the province, the duc de Fitz-James, would compromise the prerogative of the parlement of Paris to judge in its capacity as *cour des pairs*, the only court in which the peers sat in judgement and, therefore, the only court which could try a peer. In an *arrêt* of 30 December 1764, the parlement of Paris declared null the decree of the parlement of Languedoc against

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<sup>11</sup> Flammermont, *Remontrances*, ii.360, 410.

Fitz-James, asserting its unique privilege in trying peers of the realm.<sup>12</sup> In spite of this obvious contradiction, which again emerged during the d'Aiguillon-La Chalotais affair, *de facto* unity and co-operation among the various courts was an increasing feature of parliamentary activity.<sup>13</sup> The Besançon affair (1759-61) had provoked protests from all but three of the other parlements;<sup>14</sup> the expulsion of the Jesuits also captured the imagination of the provinces and called them to act not only, as Van Kley has noted, because of the parlement of Paris and the *parti janséniste*, but also because of 'indigenous Gallican sentiment, a natural provincial desire to be part of a celebrated national affair [and] a sense of parliamentary solidarity expressed by the theory of "union of classes"'.<sup>15</sup>

Despite the Paris parlement's declaration of supremacy through the *arrêt* of 30 December 1764, it continued to intervene on behalf of its provincial equivalents as it had done before.<sup>16</sup> The government's response to the revolts of the parlements against its tax initiatives did little to bolster royal authority. *Contrôleur général* Bertin resigned at the end of 1763. Unlike others loyal to the royal administration, he

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<sup>12</sup> Flammermont, *Remontrances*, ii.423-4; Barbier, *Journal*, iv.483.

<sup>13</sup> I would state this while still accepting the valid point made by Julian Swann regarding the provincial parlements. He stresses the importance of the local context of the parlements at Rouen and Toulouse when judging them as representative of increasing provincial activity. The recalcitrance of the former was closely linked to the influence of the Paris parlement, while in the latter there was a lot of bitterness among magistrates in this much divided court.

<sup>14</sup> Egret, *Louis XV et l'opposition parlementaire*, p.143. Only the parlements at Pau, Metz and Douai did not present formal protests.

<sup>15</sup> Dale Van Kley, *The Jansenists and the Expulsion of the Jesuits from France* (New Haven: Yale University Press, 1975), p.184. Even the magistrates of the *conseil souverain* in the Roussillon, 'the docile instrument of the crown's gallicization of the province [of Catalonia]', 'became increasingly desirous of placing their *conseil souverain* on the judicial map as indeed one of the "classes" of the "national" parlement' (p.184-85).

<sup>16</sup> On 26 December 1763, the parlement of Paris remonstrated 'sur les actes de violence commis contre les différentes classes des parlements' (Flammermont, *Remontrances*, ii.414). It remonstrated in favour of Toulouse in January 1764 (*ibid.*, ii.423); Pau in August 1765 (*ibid.*, ii.485); Brittany in September and December 1765 (*ibid.*, ii.501, 527) and February 1766 (*ibid.*, ii.534).

was not forced out or disgraced, but he was, like many others, an example of Louis XV's failure to give his full support to someone with the ability to carry out his will.<sup>17</sup> His replacement, the Jansenist Clément-Charles-François L'Averdy, organised a consultation with the *parlementaires* and invited contributions from them on the public finances; a subsequent *déclaration* of 28 March 1764 forbade the publication of any works on the finances, all this with a view to stemming the flow of critical financial pamphlets which were flooding the public domain. However, it was not only in response to central government's tax diktats that the provincial parlements revolted.

An example of this is the Varenne Affair<sup>18</sup> which took place against the background of a jurisdictional conflict between the parlement of Dijon and the provincial estates of Burgundy.<sup>19</sup> Varenne was a *secrétaire* of the estates. Bertin's edict of 1760 introducing a third *vingtième* and doubling the *capitation* was received with much resistance in Burgundy. By the time of its eventual registration – and here we see that it was more than a simple tax issue – representatives of the estates, including Varenne, had already contracted the subscriptions for these taxes, thus agreeing to a tax which, in theory, might not be levied if the government heeded the parlement's remonstrances. The recent history of jurisdictional conflict made this a

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<sup>17</sup> This is a point which is repeated by Swann in showing how loyal and able monarchists found themselves punished for possessing these very qualities. The disgrace of the duc de Fitz-James and Dumesnil also shows this weakness in Louis XV's style of government. (*Politics and the parlement of Paris*, p.248-49.)

<sup>18</sup> So it has been dubbed by Julian Swann in 'Power and Politics in Eighteenth-Century France: The Varenne Affair, 1757-1763', *FHS*, 21 (1998), 441-74.

<sup>19</sup> As a *pays d'état*, Burgundy had the right to assemble the provincial estates every three years in order to consent to taxes levied in their absence. A permanent commission – the chamber of *élus* – levied and collected taxes voted on by the estates. The parlement and *élus* had been in conflict over the right to hear appeals against the levying of certain taxes.



threatening precedent, which the parlement of Dijon attempted to modify in its *arrêt d'enregistrement*, precluding the imposition of any tax unless verified by the parlement. This in turn threatened a number of taxes (including the *taille*), which were administered exclusively by the provincial estates. Varenne drafted a petition to the *Conseil des finances*, which responded by quashing the *arrêt* of the parlement of Dijon on 27 October 1761. Adding insult to this already injurious *arrêt*, the *conseil* repeated comments made in Varenne's petition accusing the parlement of self-interested opposition to the contentious measures. The parlement remonstrated but received no response. The *parlementaires* went on strike on 1 February and were exiled for more than a year. During this time Varenne wrote two *mémoires* against the parlement contesting its rights, to which the parlement replied with remonstrances. In what seems like a dress rehearsal for similar conflicts between the parlements and the administrative monarchy, the crown eventually recalled the magistrates and would have allowed the sovereign courts to exact their revenge on Varenne but for the intervention of the king's *lettres de grâce*, exonerating him.

Possibly the only occasion on which a decisive action by the crown succeeded against the parlements during the 1760s was in Pau where the *parlementaires* challenged the autocratic power of their first president, Gillet de La Cage. In what amounted to an attempted coup against this judicial regime, which had existed since a *déclaration* of 16 July 1747 granted total disciplinary authority to the first president, 39 members of the parlement resigned. Following the arrest of four members, including a president of the court, and the exile of five others, the parlement was reformed, its numbers reduced and replacement judges named. A similar attempt to simply remove recalcitrant magistrates and replace them was

attempted but ultimately failed in the parlement at Rennes. Issues of taxation and jurisdiction agitated the province of Brittany in 1765 causing the resignation of a majority of magistrates in the parlement at Rennes on 22 May. The *procureur général*, Louis René de Caradeuc, seigneur de La Chalotais – who was not on good terms with the commander-in-chief of the province, the duc d’Aiguillon – and five others were arrested on 10 November and subsequently accused of conspiracy. La Chalotais was also accused of sending anonymous letters insulting the king. At the same time, the magistrates of the parlement of Brittany, the majority of whom had resigned, were replaced by a loyal court and an *instruction* was begun against La Chalotais and his co-accused by a temporary judicial commission in Saint-Malo. The parlement of Paris saw the commission as illegal and its attempt to try magistrates as an attack on the privileges of the judiciary. It therefore produced iterative remonstrances to this effect on 2 February 1766. These were followed by further protests calling for the restoration of the original parlement and demanding that the trial of the Breton magistrates take place at the parlement of Paris. The disorderly and judicially questionable nature of the trial was exemplified by the issuing of letters patent on 5 June 1766 instructing the parlement of Rennes – who had taken over the procedure from the Saint-Malo commission – to confine itself to the case against La Chalotais. Not even the famous *séance de la flagellation* (3 March 1766), which had seen the king enter the parlement and disabuse it of its pretensions to parliamentary unity, representation of the nation, legislative authority and related claims, could prevent the court from protesting at the severe irregularities in the case against La Chalotais. The *évocation* of the La Chalotais case to the king’s council irritated the parlement of Paris further but allowed judgement to fall into a limbo



between pardon and punishment where, for the parlement of Paris at least, questions of jurisdiction and judicial formalities could be forgotten temporarily.<sup>20</sup>

Voltaire's voluminous correspondence shows that he was certainly kept up to date with public affairs during this period. At times he scolded his friends for failing to keep him as informed as he would have wished (D11401, D11593, D11626) but his broad network of associates was generally helpful in providing him with the latest pamphlets and publications.<sup>21</sup> However, the public affairs and actions of the parlements that historians have deemed worthy of record only correspond loosely to Voltaire's experience of this period. Certainly, all of the 'affairs' that I have mentioned above are noted by Voltaire, and some in greater detail than others, namely, the conflict between his local parlement at Dijon and the estates of Burgundy. But generally, Voltaire's focus is on issues that directly affected him (whether by his own choice or not) or issues that were of interest to him. For this reason, it seems inaccurate to simply say that Voltaire's view of the sovereign courts is based on his abhorrence of the parlements' judicial decisions in the Calas or La Barre cases. The reality is more complex as I shall attempt to show, beginning with an examination of his general attitude to the various authorities during this period.

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<sup>20</sup> Of course, this was not the end of the affair. I shall deal with the next stage of the case in Chapter 6, on Maupeou's reform of the parlements, because of the importance of the Brittany affair in creating the political conditions necessary for the introduction of these reforms.

<sup>21</sup> For example, he receives four copies of Louis XV's *discours* at the *séance de la flagellation* (D13208).

## ***Voltaire, Parlements, Clergy and Crown***

We have seen in the previous chapter how Voltaire ingratiated himself with the local magistrates of the parlement of Burgundy in order to make life as agreeable as possible at Ferney. The counsellor Antoine Jean Gabriel Le Bault provided him with both wine and access to the judicial seat of the province at Dijon. *Président* Germain Gilles Richard de Ruffey was a regular correspondent of Voltaire's, as was the former *parlementaire* and head of an important *robe* family, Fyot de La Marche, who had been friends with Voltaire at Louis-le-Grand. Naturally, the conflict between the parlement and the estates of Burgundy would be an issue for Voltaire, *seigneur* of Ferney and sometime *plaideur*. In fact, it was in his capacity as *seigneur* and *plaideur* that Voltaire was, over many years, much involved with the parlement at Dijon. At the time of the judicial strike in Dijon, Voltaire was still involved in the case taken by the *curé* of Möens for the restitution of unpaid tithes attached to Ferney. Perhaps for this reason his initial reaction to news of the strike showed more humour than concern. He tells the D'Argentals who were, as ever, offering advice on his tragedies by correspondence, that he will not mimic the parlement of Burgundy 'qui cesse ses fonctions parce qu'il croit qu'on lui dit des injures',<sup>22</sup> in reference to the criticisms by Varenne, repeated in the *arrêt* of the *conseil des finances*. Four months into the strike and Voltaire is still light-hearted. He tells Le Bault (D10452) of the case of six young men whose property has been acquired by the Jesuits in questionable circumstances. Their case should be coming before the parlement (the Jesuits appealed to buy time) whereas Voltaire's only case – as he says – is with

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<sup>22</sup> D10341, Voltaire to the D'Argentals (24 February [1762]).

nature, one he will most certainly lose. He states that he would like to see the 'tracasseries' (a word he has often used in describing conflicts involving the parlements) finished but jokes that the striking magistrates 'nous mett[ent] tous dans le cas de la comtesse de Pimbeche'.<sup>23</sup> Almost a year after the strike began, Voltaire's nonchalance has given way to real annoyance: 'L'oisiveté du parlement ôte ainsi le pain à six orphelins. Il y a peut-être cent familles dans le même cas. Vous m'avouerez que cela n'est pas juste, et que ce n'est pas la peine d'avoir fait serment de rendre la justice pour ne la pas rendre. Ce délai m'afflige extrêmement.' The affair is 'plus ridicules que dangereuses, mais elles sont désagréables et nous avilissent aux yeux des étrangers'.<sup>24</sup> Voltaire has never been a supporter of interruptions of justice, particularly when he is affected personally, and his reaction to this strike is consistent with others.

Returning to the issue of the tithes claimed by the *curé* of Möens, the lengthy affair could only have added to Voltaire's poor impression of the parlement of Burgundy. After receiving confirmation from the king's council, through the duc de Praslin, that he was not liable for the payment of tithes, Voltaire is informed by the first president, the younger Fyot de La Marche, that 'la lettre d'un ministre, toute respectable qu'elle est, ne remplace pas des formalités indispensables'.<sup>25</sup> The parlement at Dijon had never registered the laws on which Voltaire relies to avoid payment of the tithes attached to Ferney. Voltaire informs the D'Argentals bitterly that, 'ils [the magistrates] connaissent peu les Lettres des ministres, il leur faut des Lettres patentes' (D11505). Could this be another element contributing to Voltaire's

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<sup>23</sup> D10452, Voltaire to Le Bault (17 May 1762). Another reference to Racine's *Plaideurs*.

<sup>24</sup> D10935, Voltaire to Fyot de La Marche (21 January 1763).

lack of faith in the parlement's ability to carry out its fundamental function? Perhaps, but it was certainly not enough to make him dislike his local court. In fact, it seems that Voltaire was eminently content in his role as *seigneur* of Ferney and took it seriously, actively involving himself in the affairs of the local area.<sup>26</sup> Later, D'Alembert would express his surprise on hearing that Voltaire is thinking of purchasing property in Lyon (which he did not do) wondering why he would move from the jurisdiction of the parlement of Burgundy where he was so content.<sup>27</sup>

On a national level, the expulsion of the Jesuits from France was a dominant feature of the parlements' activities in the early 1760s.<sup>28</sup> Dale Van Kley has shown how the small but influential *parti janséniste* at the parlement of Paris took advantage of the Jesuits' appearance before the court to extirpate the order from French soil.<sup>29</sup> Voltaire explained that this was Jansenist revenge for the razing of Port-Royal by the Jesuit Le Tellier<sup>30</sup> but was certainly influenced by the conflicts

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<sup>25</sup> D11476, Jean Philippe Fyot de La Marche to Voltaire (30 October 1763).

<sup>26</sup> For Voltaire's commanding presence at Ferney see Caussy, *Voltaire: Seigneur de Village*.

Voltaire's view of the *seigneur*'s role is also clear from the article 'Fertilisation' in the *Questions sur l'Encyclopédie*: 'Il ne faut pas qu'un seigneur s'attende en faisant cultiver sa terre sous ses yeux, à faire la fortune d'un entrepreneur des hôpitaux ou des fourrages de l'armée, mais il vivra dans la plus honorable abondance.' He also stresses the need for the *seigneur* to stay on his lands and oversee the work being done: 'Plus il y aura d'hommes qui n'auront que leurs bras pour toute fortune, plus les terres seront en valeur. Mais pour employer utilement ces bras, il faut que les seigneurs soient sur les lieux.'

<sup>27</sup> D14161, D'Alembert to Voltaire (4 May 1767).

<sup>28</sup> From the Abbé Chauvelin's calculated attack on the very nature of the order on 17 April 1761 until the king's edict of November 1764 finally suppressing the order, only the *conseil souverain* at Colmar and the parlements at Besançon and Douai remained silent on the Jesuits.

<sup>29</sup> Dale Van Kley, *The Jansenists and the expulsion of the Jesuits*. He explains how 'it sufficed to take sides against the Jesuits to acquire a reputation as a Jansenist' (p.94). What the hard core of anti-Jesuits lacked in numbers it made up for with 'a more rigorous internal discipline [and] the conviction of the righteousness of its cause' (p.126).

<sup>30</sup> *Précis du siècle de Louis XV*, in ed. Pomeau, *Œuvres historiques*, p.1536: 'La charrue que le jésuite Le Tellier avait fait passer sur les ruines de Port-Royal a produit, au bout de soixante ans, les fruits qu'ils recueillent aujourd'hui.'



over *billets de confession* which had caused such turbulence in French society since the time of Cardinal Fleury. We have seen Voltaire's often mocking reaction to the *billet de confession* controversy<sup>31</sup> but also refer to it as one of the black marks tarnishing his century.<sup>32</sup> We have also seen him refer to a trinity of culprits – Jansenist, Jesuit and *parlementaire* – responsible for France's woes.<sup>33</sup> Therefore, the expulsion of the Jesuits would inevitably lead him to change his perception of the parlement's involvement in religious affairs. Voltaire's first reaction to the loss of the order shows humour give way to slight concern: 'Je suis fâché que les autres comédiens nommez jesuittes tombent aussi. C'est une grande perte pour mes menus plaisirs. Les universitez jointes au parlement vont établir un terrible pédantisme. Je n'aime pas les mœurs pédantes.'<sup>34</sup> Voltaire would have been content with the expulsion of the Jesuits except that now 'on va être livré au jansénistes, qui ne valent pas mieux' (D10427). What Voltaire did not realise at this early stage was the effect the expulsion of the Jesuits would have on Jansenism. Van Kley explains that 'opposition to the Jesuits [...] had become part of Jansenism's very *raison d'être*. The Jansenist movement had little else to sustain itself in the event that either religious controversies or, for that matter, the Jesuits themselves were eliminated.' In effect, by the middle of the 1760s, because of the expulsion of the Jesuits, the Jansenists had 'defined themselves out of existence',<sup>35</sup> a fact which was evident in their declining influence as the source of political opposition within the parlement of Paris.<sup>36</sup>

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<sup>31</sup> D5554, D5569, D5630, D5925.

<sup>32</sup> See, for example, D8721, D8956, and *Le Russe à Paris* (M.x.119-31).

<sup>33</sup> D8872. He would do so later also: D10398.

<sup>34</sup> D10419, Voltaire to the D'Argentals (17 April [1762]).

<sup>35</sup> Van Kley, *The Jansenists and the expulsion of the Jesuits from France*, p.222-23, 228.

<sup>36</sup> See Swann, *Politics and the parlement of Paris*. During the 1760s (after the expulsion of the Jesuits) a group of *parlementaires* had formed around Michau de Montblin, which subsequently led

With the absence of vocal Jansenists and their opponents in theological argument, the Jesuits, the only target left for Voltaire's anti-clerical bile was those of the French church who harboured the ultramontane doctrine (previously, the prerogative of the Jesuits), interestingly, an enemy he shared with the ever-Gallican parlements. Voltaire probably did not realise the effect of this changing dynamic, which might explain his misdirected praise for the king in a letter to Damilaville of November 1765: 'J'ai peur qu'à la s<sup>t</sup> Martin le parlement et le clergé ne donnent leurs opéras comiques, dont la musique sera probablement fort aigre. Mais la sagesse du roi a déjà calmé tant de querelles de ce genre, que j'espère qu'il dissipera cet orage' (D12965). However, his praise is not only reserved for the monarch. The news that the parlement of Paris has burned a pastoral letter by the Archbishop of Paris, Christophe de Beaumont, is greeted with a cautious welcome. Voltaire tells Damilaville, 'Nos plus grands ennemis combattent pour la bonne cause sans le savoir'.<sup>37</sup> He expresses himself in similar terms to D'Alembert adding that, on the question of the role of priests – Voltaire feels they should pray and do nothing else – 'les parlements sont en ce point d'accord avec la raison' (D12937). At one stage he tells the D'Argentals, 'je crois que je suis actuellement parlementaire' having read an 'excellente' letter justifying an *arrêt* of the parlement of Paris against the clergy.<sup>38</sup> Voltaire explains his position in very clear terms later that year. In the conflict between the parlement and the clergy, he is unequivocal: 'Je me déclare net pour le parlement; mais sans conséquence pour l'avenir, car je trouve fort mauvais qu'il

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the opposition to the crown, particularly in the Brittany affair. While their ideas corresponded with the constitutional ideas of Le Paige and other Jansenists within the parlement, they had no religious affinity with followers of Père Quesnel (p.294, 298-300).

<sup>37</sup> D11670, Voltaire to Damilaville (30 January 1764).

<sup>38</sup> D12923, Voltaire to the D'Argentals (8 October 1765).



fatigue le roi et le ministère pour les affaires de bibus [trivial issues], et je veux qu'il réserve toutes ses forces contre les usurpations ecclésiastiques, surtout contre les romaines.<sup>39</sup> Therefore, in religious issues, both Voltaire and the parlements maintain their ardent Gallicanism. However, beyond this restricted area, other matters show how unlikely a coalition of Voltaire and the parlements actually is.

Over the period 1750-62, Voltaire had been a strong supporter of the *vingtième* and was particularly interested in seeing the church contribute through this direct form of taxation.<sup>40</sup> As the demands of the Seven Years' War turned the state finances into the main source of conflict between the crown and the parlements, Voltaire consistently supported the former and dismissed the latter's reservations as disloyal.<sup>41</sup> With the ending of the Seven Years' War, the question of the parlement's loyalty was no longer as relevant. However, for Voltaire, the principle of the tax issue remained the same. Prior to the *lit de justice* of 31 May 1763, it is unsurprising to see Voltaire, a wealthy landowner lest we forget, declare in a letter to François de Chennevières that *contrôleur général* Bertin's demands are reasonable (D11224). Voltaire's position in society afforded him the luxury of supporting the state's fiscal initiatives. Having accepted this proviso, we can surmise that his view on the public

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<sup>39</sup> D12977, Voltaire to the D'Argental (13 November 1765).

<sup>40</sup> His support for the tax is clear in the *Lettre à l'occasion de l'impôt du vingtième* (1749), *La voix du sage et du peuple* (1750) and *Dialogue entre un philosophe et un contrôleur général des finances* (1751). In spite of this genuine belief that a direct tax applicable to all was a good idea and that the rich should consider themselves lucky to be sufficiently wealthy to be required to contribute through taxation, Voltaire went to great lengths to ensure that his lands at Ferney were free from tax liabilities, such as the *vingtième*. Fernand Caussy explained this policy of a *seigneur* who happily claimed feudal dues from others: 'Car il est deux points sur lesquels un homme de l'ancien régime, quelque philosophe qu'il soit, se montre également irréductible: le premier, c'est de refuser l'impôt au roi, et le second, c'est de l'exiger sans rémission de ses vassaux' (*Voltaire: Seigneur de Village*, p.15).

<sup>41</sup> During wartime, Voltaire felt that one should contribute half of one's property in order to help protect the other half (D9134, D9141).

finances was public minded. He favoured the continuation of the third *vingtième*, which even the state had decreed to suppress, 'car il faut acquitter les dettes de l'état' (D11270). He is critical of the parlement's remonstrances (D11306, D11311, D11431) referring to them as 'un libelle séditieux' and comparing them to the way the Parliament of England spoke to Charles I (D11309). He is also critical of the proliferation of pamphlets on the finances (D11388, D11423, D11670). Voltaire's public-mindedness is clear from his great fear that 'toutes les belles remonstrances n'aboutissent à donner une paralysie à la main de nos paieurs des rentes'.<sup>42</sup> His belief is that the remonstrances of the parlements have been detrimental to public securities (D11435) and perhaps more importantly, to the crown itself. Voltaire tells Damilaville of his proposed couplet for the plinth of a statue of Louis XV: 'Il chérit ses sujets comme il est aimé d'eux, / Heureux père entouré des ses enfants heureux.' Voltaire admits that the lines are perhaps 'pas vrai aujourd'hui' but that they may be before the erection of the statue 'quand toutes les remonstrances du parlement seront oubliées'.<sup>43</sup>

Voltaire's support for royal authority when confronted with the parlements' remonstrances does not seem to be part of what Peter Gay calls Voltaire's 'life-long fight for the *thèse royale*'.<sup>44</sup> I am not questioning whether Voltaire was a monarchist but rather his relationship with the reign under which he found himself a subject. Nowadays, it is perfectly understandable for a holder of democratic values to find a

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<sup>42</sup> D11401, Voltaire to the D'Argental (7 September 1763). Of course it should be understood that the 'public' he had in mind were people in the same socio-economic group as himself. As a *rentier*, Voltaire's public and personal interest converged in his belief that the failure to pay *rentes* had a detrimental effect.

<sup>43</sup> D11445, Voltaire to Damilaville (8 October 1763).

<sup>44</sup> Gay, *Voltaire's Politics*, p.309.

democratically elected government abhorrent to their principles. The fact that a number of different styles of democratic government are available to a voter would seem to increase the possibility that a given individual would find at least one style agreeable to them. Under monarchical government in eighteenth-century France, this possibility did not necessarily decrease, as the absence of the subject's involvement in government precluded consideration and even discussion of alternatives. Having said that, it does seem likely that an educated, well-connected and influential individual would have an opinion on the most satisfactory type of government. Voltaire had such opinions and favoured monarchy. It is also likely that an historian would favour a particular style of monarchy, being familiar with the history of many. For Voltaire, the reigns of Henri IV and Louis XIV came closest to his ideal. The reign of Louis XV could never achieve this ideal status, perhaps because it could not be viewed nostalgically, but certainly because it failed in comparison to previous reigns to contribute to the glory of France. Voltaire's exile from Paris over a thirty-year period certainly influenced his opinion. Voltaire's subsequent support for royal authority is interesting because it seems as much tactical as doctrinal. As we have seen, in the aftermath of the Damiens affair and the condemnation of the *Encyclopédie*, Voltaire explained clearly to Helvétius the position that the *philosophes* must adopt: 'Le Roy doit sçavoir que les philosophes aiment sa personne et sa couronne, qu'ils ne formeront jamais de cabale contre lui, que le petit fils de Henry 4 leur est cher, et que les Damiens n'ont jamais écouté des discours affreux dans nos antichambres. Nous donnerions tous la moitié de nos biens pour fournir au Roy des flottes contre l'Angleterre' (D9141). Voltaire had realised the importance of protection within the king's administration from the parlement of Paris in his efforts

to avoid censorship. This was something he was forced to cultivate as the parlements increasingly threatened – in his eyes - a more free and tolerant society. He was certainly aware that his support for royal authority was not always reciprocated (D10875). I would go so far as to say that he could show this support for authority because he was exiled from its source. He did not have to deal with the practical effects of existing within the monarchical machine, namely, cabals at court, ministerial division and appeasement of ultramontane Catholics, among other things. (This is not to say that he lacked the necessary skills in flattery, conspiracy and amorality but rather that court was lacking for such a talented and able mind as his.) His exile allowed him a freedom which Paris could never offer and he informed the comte D'Argental that 'la démence la plus ridicule est de s'aller faire esclave quand on est libre, et d'aller essayer tous les mépris attachés au plat métier d'hommes de lettres, quand on est chez soi maître absolu; enfin d'aller ramper ailleurs, quand on n'a personne au dessus de soi dans le coin du monde qu'on habite.'<sup>45</sup> In his exile, further freedom was assured by consistently proclaiming his orthodoxy and that of the *philosophes*. As he informed D'Alembert, 'On ne s'était pas douté que la cause des rois fut celle des philosophes; cependant il est évident que des sages qui n'admettent pas deux puissances, sont les premiers soutiens de l'autorité royale.'<sup>46</sup> Voltaire's support for the ideal of royal authority, imposed on the reign of Louis XV, increased in proportion to the failures of the reign in maintaining that very authority, whether against the parlements or the clergy.

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<sup>45</sup> D8880, Voltaire to D'Argental (27 April 1760). The one form of absolutism Voltaire supported wholeheartedly was his own.

<sup>46</sup> D12937, Voltaire to D'Alembert (16 October [1765]).

The so-called *séance de la flagellation* (3 March 1766) could be seen as the ultimate restatement of absolute royal authority, but is there a more convincing show of weakness than a king who must tell his subjects who is sovereign? Could that weakness be more convincingly confirmed than by the subjects' continued interference in areas of which the king had purported to deprive them of cognisance?<sup>47</sup> Voltaire greeted with delight the king's response to the parlement of Paris at the *séance royale*. On 12 March 1766, he wrote to four separate correspondents praising the king's *discours* (D13205, D13206, D13207, D13208). He tells Damilaville that he has not read anything 'si sage, si noble et [...] si bien écrit' in a long time. He cannot envisage remonstrances in response to a *discours* that chimed so clearly with his own idealised view of monarchy:

C'est en ma personne seule que réside la puissance souveraine, dont le caractère propre est l'esprit de conseil, de justice et de raison; que c'est de moi seul que mes cours tiennent leur existence et leur autorité; que la plénitude de cette autorité, qu'elles n'exercent qu'en mon nom, demeure toujours en moi, et que l'usage n'en peut jamais être tourné contre moi; que c'est à moi seul qui appartient le pouvoir législatif sans dépendance et sans partage.<sup>48</sup>

Voltaire's use of the phrases 'notre protecteur' and 'notre confrère' in reference to Louis XV in his letter to D'Alembert suggests an association between the nominal head of the *Académie française* and the *philosophes* which was more tenuous in reality. The paragraph that follows shows the illusion for what it is: 'Je me flatte que

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<sup>47</sup> The parlement of Paris responded to the king's *discours* with an *arrêté* on 20 March interpreting their function in the state. They upheld the absolute power of the king but added that 'avant que la loi ait reçu sa dernière forme et qu'elle puisse être exécutée elle doit être vérifiée au Parlement, qui est le vrai consistoire des rois' (Flammermont, *Remonstrances*, ii.564).

<sup>48</sup> Flammermont, *Remonstrances*, ii.557.



votre ami m. de la Chalotais sortira brillant comme un cygne de la bourbe où l'a fourré; il a trop d'esprit pour être coupable.'<sup>49</sup> In supporting only the ideal of royal authority, Voltaire can ignore the fact that La Chalotais's detention is the result of the struggle between actual royal authority and the parlements, a struggle that resulted in serious abuses through the failure to follow normal legal procedure in the case. I shall examine later the unusual cases against the *procureur général* of the parlement of Rennes, La Chalotais and the chevalier de La Barre, but their results for Voltaire's thought can be best understood by first addressing his involvement in the earlier cases against Jean Calas and Pierre Paul Sirven at the parlement of Languedoc in Toulouse.

### ***Calas and Sirven before the Magistrates of Toulouse***

Voltaire's commitment over a number of years to the Calas family and to the judicial rehabilitation of Jean Calas lies in stark contrast to his attitude towards a case of similar religious intolerance in Languedoc the month before the suspicious death of Marc-Antoine Calas. A Protestant minister named Rochette<sup>50</sup> was arrested on 13 September 1762 as a suspected highwayman and incarcerated in Caussade, a small village near the predominantly Protestant town of Montauban. Attempts to release Rochette were made by a group of Protestants who had arrived in Caussade for a fair

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<sup>49</sup> D13205, Voltaire to D'Alembert ([12 March 1766]).

<sup>50</sup> I rely here on the sometimes conflicting accounts of the events given by René Pomeau in *«Ecrasez l'Infâme»*, p.132-5 and David A. Bien's *The Calas Affair* (New Jersey: Princeton University Press, 1960), p.77-91. Pomeau attempts to explain Voltaire's failure to intervene in the case while Bien focuses on demonstrating how rumour could easily produce anti-Protestant hysteria among Catholic provincials. Bien shows quite clearly that Catholic hysteria was unfounded while Pomeau seems to accept the Catholic prejudices, avoiding a discussion of them by stating simply that 'La population catholique prend peur. Des incidents éclatent' (p.133).



the following day, resulting in the circulation of rumours about a Protestant uprising. Three Protestant noblemen were also arrested on the 15 September as leaders of the Protestant revolt by a makeshift Catholic militia. Jean Ribote-Charon, a Protestant from nearby Montauban, wrote to both Voltaire and Rousseau seeking their support against this injustice. Voltaire contacted the duc de Richelieu about the case encouraging him to recommend that the parlement of Toulouse sentence Rochette to be hanged and that the king grant clemency (D10178). The parlement executed its part of this plan but the king did not. Rochette was hanged and the three nobles beheaded. Pomeau notes that Voltaire's lack of enthusiasm could have been down to his conflicts with Genevan ministers (p.134) but David Bien's explanation is more likely, that Voltaire believed there had been a Protestant revolt against royal authority in Caussade.<sup>51</sup>

In the case of Jean Calas and his family, Voltaire attacks the same prejudices among the Catholic population of Languedoc which contributed to his own failure to intervene in favour of Rochette. However, this paradox is not as contradictory as it seems when we consider that, in both cases, Voltaire reacted consistently when confronted with what he saw as fanaticism, whether that was the fanaticism of a band of unruly Protestants or a community of Catholic citizens and magistrates. The case against the Calas family was the result of the unusual death of Marc-Antoine Calas, found apparently strangled, at his family home on the night of 13 October 1761. At first, the family claimed that they had found him on the floor of a downstairs room,

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<sup>51</sup> Both Bien and Pomeau quote Voltaire's letter to Ribote on 27 November 1761 (D10177) where he disapproves of the alleged public assemblies of Protestants: 'Jésus-Christ a dit qu'il se trouverait toujours entre deux ou trois personnes assemblées en son nom, mais quand on est trois ou quatre mille, c'est le diable qui s'y trouve.'

strangled by an intruder, in order to protect his remains from the fate of those who took their own lives, but subsequently admitted to his suicide.<sup>52</sup> Fatally for Jean Calas, a Protestant artisan, popular mutterings and prejudicial assumptions by the public authorities contributed to the accusation that all members of the Calas family present that evening had conspired with a family friend to murder Marc-Antoine because of his imminent abjuration from Calvinism. On 9 March 1762, Jean Calas was sentenced by a majority of the parlement of Toulouse to be broken on the wheel where he continued to proclaim his innocence, forgave his judges and mourned the death of his son. The family's property was confiscated. One son, Pierre Calas was banished from Toulouse while the case against the others was discontinued without a full acquittal.

On first hearing the news of the alleged murder of Marc-Antoine Calas by his father, Voltaire shows horror at what he believes is a Protestant father's fanaticism. He tells Antoine Jean Gabriel Le Bault, a counsellor at the parlement in Dijon, how 'ce saint réformé croit avoir fait une bonne action, attendu que son fils voulait se faire catholique.' Voltaire's reaction is one that is similar to what Bien notes as the general reaction of Catholics who did not know the Calas family personally: 'The defendants seemed most frightening to those Catholics for whom the Calas were simply Protestants rather than individuals' (p.146). Voltaire continues to Le Bault, 'Nous ne valons pas grand chose, mais les huguenots sont pires que nous, et de plus ils déclament contre la comédie.' While Voltaire is quick to begin questioning the

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<sup>52</sup> Bien, *The Calas Affair*: 'The Criminal Ordinance of August 1670 demanded that the body of a convicted suicide be dragged face-down through the streets behind a horse-drawn hurdle and then deposited in the town's dumping ground' (p.10).

judgement against Jean Calas – he tells the cardinal de Bernis in a letter of 25 March (D10386) that he has heard that Calas is ‘très innocent’ and that three judges protested against the *arrêt* – even in his uncertainty he cannot avoid the association of the crime with all Protestants: ‘Il faut regarder le parlement de Toulouse, ou les protestants, avec les yeux d’horreur’. On the same day Voltaire admits his unease about the case telling Fyot de La Marche, ‘Je suis hors de moi. Je m’y intéresse comme homme, un peu même comme philosophe. Je veux savoir de quel côté est l’horreur du fanatisme.’<sup>53</sup> The lack of unanimity among the judges, and Jean Calas’s proclaiming his innocence until his demise on the wheel are indications to Voltaire that a grave miscarriage of justice has taken place. The Calas case has already joined ‘des Damiens, la perte de toutes nos colonies, des billets de confession’ in the litany of scars that have blighted Voltaire’s times.

From the earliest days we see that Voltaire has concerns about the nature of the proceedings and the decision of the judges. Moreover, only five days after first hearing about the case, the magistrates’ culpability is mooted. In a comprehensive questioning of the case addressed to his influential Parisian friends, the D’Argentals, no doubt with the intention that they pass on his misgivings, Voltaire notes that five of the thirteen judges declared the Calas family innocent.<sup>54</sup> In spite of this belief that

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<sup>53</sup> D10387, Voltaire to Claude Philippe Fyot de La Marche (25 March [1762]). Unlike the majority of Catholic *Toulousains*, Voltaire held in equal horror all acts of retribution self-righteously perpetrated against the Other, Old Testament-style. According to John Renwick (*Traité sur la tolérance*, OCV, vol.56C (Oxford: VF, 2000), p.29-30), Voltaire’s toleration ‘was both a strategy and an ideal. Its aim was to counteract – and ultimately render impossible – the actions of those who believed that, having exclusive access to Truth, they also had the duty to require others, by force if necessary, to embrace it.’ This attitude is evident in particular in his reaction to the St. Bartolemew’s Day massacre.

<sup>54</sup> D10389 (27 March [1762]). Bien notes that of the five who did not vote for the death sentence only one voted for acquittal, two others voting for torture to be carried out to elicit an admission of guilt (p.98).

‘un sixième juge raisonable’ could have saved Calas, Voltaire implies the judges’ culpability: ‘Il ne m’appartient pas de condamner le parlement de Toulouse, mais enfin il n’y a eu aucun témoin oculaire. Le fanatisme du peuple a pu passer jusqu’à des juges prévenus. Plusieurs d’entre eux étaient pénitents blancs.’<sup>55</sup> Ils peuvent s’être trompez.’ Still unsure of Calas’s innocence or guilt, Voltaire is sure that fanaticism was the cause: ‘Il y a certainement d’un côté ou d’un autre un fanatisme horrible’. This fanaticism has come from the ‘peuple’ or else because of certain judges’ links to a religious order and has not originated exclusively within the parlement of Toulouse.

Having summoned Donat Calas, the youngest of the Calas sons, to the *Délices* to find out more about the case and the personalities of those accused, Voltaire was quickly convinced of the family’s innocence. In what Besterman describes as ‘Voltaire’s first shot in the Calas campaign’<sup>56</sup> the *philosophe* compares the case of Calas with that of Damiens and stresses the need to make it public in order that man might learn from the horrors of fanaticism (and here he is talking, no doubt for the sake of the authorities, about Calas’s Protestant brand of fanaticism). The important point was that ‘la preuve du parricide et du sacrilège qui ont conduit Calas sur la roue’ would be made known for all to see. Voltaire would continue to promote the making public of the Calas affair as the best means to achieve justice, in

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<sup>55</sup> The White Penitents were a lay religious order whose members organised a procession to the cathedral in Toulouse in memory of Marc-Antoine Calas whom they saw as a martyr for the Catholic faith.

<sup>56</sup> D10414 (15 April [1762]), Commentary: Besterman says it was ‘almost certainly not a genuine letter’, but a means of publicising the case. His interpretation seems sound given Voltaire’s eagerness to state his objective interest in the Calas case: ‘Je ne connais que les factums faits en faveur des Calas, et ce n’est pas assez pour oser prendre parti. J’ai voulu m’instruire en qualité d’historien.’

as much as it could be achieved, for the Calas family. He tells Dominique Audibert (D10573) that the best way to gain the king's protection in order to force the parlement to co-operate with the investigation into their proceedings is by creating a 'cri public'. He suggests to Philippe Debrus, another of his network of acquaintances working for the rehabilitation of Calas, that they petition Madame de Pompadour in order to gain the favour of the king. Again, the important point was to publicise the case: 'Le grand point est de préparer les esprits, d'avoir des protecteurs et de toucher tous les coeurs en faveur de cette famille infortunée.'<sup>57</sup>

Publicising the case of the Calas family was carried out on a grand scale by Voltaire in his correspondence with *les grands* throughout Europe<sup>58</sup> while at home his ghost-written works for Donat and Madame Calas enlightened the literate public. The *Pièces originales concernant la mort des sieurs Calas et le jugement rendu a Toulouse*<sup>59</sup> appeared around 10 July 1762 and originally contained just two pieces written by Voltaire but presented as letters written by Madame Calas and her son Donat. The first of these, *Extrait d'une lettre de la dame veuve Calas*, gives Madame Calas's account of the events of 13 October 1761, presenting her horror and distress at the events and their repercussions as evidence of her innocence. The following *Lettre de Donat Calas fils à la dame veuve Calas, sa mère*, relies more on the incongruity of the facts in order to show the family's innocence. He, as an innocent party in all eyes, can blame 'la haine, qui naît souvent de la diversité des religions' for the accusations against his family. He refutes the claim that Marc-Antoine wished

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<sup>57</sup> D10585, Voltaire to Philippe Debrus (14 July 1762).

<sup>58</sup> 'Le Philosophe sollicite l'Europe entière: Frédéric de Hesse-Cassel, la duchesse de Saxe-Gotha, Gustave de Suède, la margrave de Bade-Durlach, Frédéric II.' Pomeau, «*Ecrasez l'Infâme*», p.149.

<sup>59</sup> *Œuvres de 1762 (II)*, ed. Robert Grandroute, *OCV*, vol.56B, (Oxford: VF, 2000), p.131-267.



to change religion, and even if he had this would not have been a problem. His brother Louis had done so, and in any case Protestantism preaches tolerance, ‘cette sainte et divine maxime dont nous faisons profession, ne nous laisse condamner personne.’ Voltaire repeats numerous times on Donat’s behalf that the judges in the case are not to blame. This is clearly part of his strategy, as targeting the judges personally would have been counter-productive. They acted ‘sur des indices trompeurs’; Donat thanks them for their ‘rigueur que la calomnie avait trompés’; they are ‘d’ailleurs intègres et éclairés’. The judges are explicitly absolved of any fault: ‘Ce ne sont pas les juges que j’accuse: ils n’ont pas voulu sans doute assassiner juridiquement l’innocence; j’impute tout aux calomnies, aux indices faux, mal exposés, aux rapports de l’ignorance, aux méprises extravagantes de quelque déposants, aux cris d’une multitude insensée’. Therefore, the case must be made public so that it may be examined. In case the judges feel threatened by this, Donat repeats his faith in the judiciary: ‘Les juges de Toulouse ne sont pas des tyrans, ils sont les ministres des lois’. The closest Donat comes to apportioning blame to the judges is his suggestion that ‘s’ils ont été trompé, c’est qu’ils sont hommes’.<sup>60</sup>

The parlement of Toulouse and its judges escape unscathed in these works as Voltaire’s strategy in publicising the case requires such a rhetoric, and this in spite of his frustrations with the court at this time. Mariette, a Parisian lawyer acting for the Calas family, had requested the procedure from the parlement of Toulouse but the court refused to communicate it, evidence that it was ‘honteux de son jugement’

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<sup>60</sup> Accompanying the *Pièces originales* in later editions were the *Requête au roi en son conseil* and *A Monseigneur le Chancelier*, both signed by Donat Calas. Both of these pieces request in more formal terms that the truth be made known by the publication of the case.



(D10573). Worse still, two hundred gold Louis had been requested for a copy of the procedure which might have been altered by the court (D10587). Despite these perversions, Voltaire does not, even privately, target the parlement directly.

Fanaticism is the root cause: 'Tant d'horreurs et tant d'absurdités n'auraient pu s'accumuler sans la main du fanatisme'. For Voltaire 'l'esprit de fanatisme est plus funeste que l'esprit de corps' (D10601). Voltaire's letter of August 1762 to Philippe Debrus may explain his sparing of the parlement. The letter can be read as an explanation of the tactics that the defenders of Calas should employ. Voltaire tells Debrus that 'Il vaut encore mieux songer à rendre notre veuve intéressante qu'à rendre le tribunal de Toulouse odieux'. Whatever ill feeling Voltaire did harbour towards the parlement of Toulouse at this time he did not show it, abiding by the requirements of what was essentially his public relations strategy.<sup>61</sup>

In the same letter, Voltaire warns his correspondent against publicising another case of judicial severity in the Toulouse area, this time against a Catholic, as this would give the judges of the kings council 'la cruelle idée que les parricides sont communs en Languedoc, et que le parlement est aussi sévère envers les catholiques qu'envers les réformez.' The fact is that they probably were. David Bien states that between 1750 and 1778, the parlement of Toulouse handed down 236 death sentences, 87 of these for theft alone. Criminal justice in *ancien régime* France was cruel and very severe by today's standards; it did not require religious fanaticism as motivation for its excesses. The case of the 'malheureux accusé d'avoir tué son père'

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<sup>61</sup> D10651 ([August 1762]). Voltaire's likeness to our contemporary PR representatives is particularly evident in his comments on the behaviour of Madame Calas in the aftermath of her husband's death: 'Jamais elle ne rappelle son horrible mort, l'iniquité affreuse des juges, leur fanatisme, son innocence. Il me semble que si on avait roué mon père [he means husband], je crierais un peu plus fort.'

that prompts Voltaire to warn Debrus is quite possibly that of Clauzié, a Catholic executed on circumstantial evidence the previous month for plotting with his family in the murder of his father.<sup>62</sup> This may explain Voltaire's subsequent concern with the nature of the justice system as opposed to the prejudices of particular judges. This concern is already evident in the *Histoire d'Elisabeth Canning et de Jean Calas* - a work presenting the English justice system as one to which the French should aspire - which appeared at about the same time as Voltaire's letter to Debrus.<sup>63</sup>

Another fear of falsification of records by the parlement of Toulouse emerges prior to the decision of the *conseil du roi* on 7 March 1763 to authorise an appeal against the Toulouse judgement. Voltaire greets this with disbelief: 'Dans quel siècle abominable vivons nous, si on a raison a soupçonner un parlement d'être faussaire, et de mériter ce qu'il a fait à Jean Calas!'<sup>64</sup> Voltaire tells one of the Calas lawyers, Pierre Mariette, that the accusation is 'aussi humiliant pour les huit juges de Toulouse, que leur arrêt est abominable.' He relates the same fears to Debrus (D11040) but is confident that with a powerful 'cri public' and a reliable *rapporteur* in Louis Thiroux de Crosne, 'les juges n'oser[ont...]refuser la revision.'<sup>65</sup> While Voltaire does refer to the judges in the same letter as 'des assassins en robe noire' the target of his complaints is Calas's judges rather than the parlement as a whole. I am not attempting to show that the Calas affair had no effect on Voltaire's view of the

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<sup>62</sup> Bien notes the similarities between the case of the Catholic Clauzié and that of Calas. Both saw hearsay accepted as evidence of a family plot (p.94).

<sup>63</sup> John Renwick states that Voltaire's earliest coherent reflections on justice appear in *André Destouches à Siam*, ed. John Renwick, in *OCV*, vol.62 (Oxford: VF, 1987) p.109-126. It is addressed in greater depth by the *Commentaire sur le livre des délits et des peines par un avocat de Province*, a work I shall discuss later. The second of these twin concerns, prejudice or intolerance, is also expanded upon in the *Traité sur la tolérance*.

<sup>64</sup> D11037 Voltaire to Philippe Debrus (22 February [1763]).

<sup>65</sup> D11040, Voltaire to Philippe Debrus ([23 February 1763]).

parlements since, clearly, it did. Voltaire admits this openly to the D'Argentals (D11042): 'J'avoue que son [Calas's] aventure ne contribue pas à me faire aimer les parlements.'<sup>66</sup> However, his tone is not what one would expect from someone who has just called the judges assassins. Even if this is an example of Voltarian understatement, the passage that follows it is more revealing. He continues, 'Malheur à ceux qui a affaire à eux. Fût on jésuite, on s'en trouve fort mal.' Clearly, what has been affected by the Calas case is Voltaire's attitude towards the parlements in their capacity as dispensers of justice.<sup>67</sup> This would explain the focus of his complaints being on the judges rather than on the parlements as institutions with functions of *police*, regulation and a quasi-legislative role. Up until now Voltaire's major issues with the parlements have been with the parlement of Paris and most significantly with its role as a political and moral authority (its refusal to register tax legislation, its involvement in the conflict over refusal of sacraments, its role in the condemnation of literary works, including the *Encyclopédie*). The Calas case forced him to question the parlements' ability – because of the prejudices of certain judges – to carry out their primary function, namely, to act as courts of law providing the king's justice for his subjects, and consequently to focus on the wider problem of criminal justice.

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<sup>66</sup> D11042, Voltaire to the D'Argentals (25 February 1763).

<sup>67</sup> Voltaire goes on to describe, 'puisque j'ai du papier de reste' how he conducted a mock trial of the Jesuits at Ferney. He says that his court – Voltaire played first president – found the order 'innocent de tout ce que les parlements disent contre vous aujourd'hui, et vous déclare coupables de ce qu'ils ne disent pas.' All he required of them was to renounce those doctrines which were abhorrent to French law and swear loyalty to the four articles of the Gallican church. Voltaire obviously saw that the problem with the case against the Jesuits was in the sphere of the parlement's approach in law or in justice rather than in ulterior religious or historical reasons.

The decision by the *Conseil du roi*, quashing the *arrêt* of the parlement of Toulouse and requesting copies of the proceedings and the reasons for the judgement was an important step towards vindication for the Calas family. As Voltaire told Calas's widow, 'Le reste ne sera qu'une discussion de procédures, et ne consistera que dans les formes juridiques'.<sup>68</sup> Voltaire was no doubt aware that his assurances were a little premature, but the decision did instil in him the necessary confidence in a positive outcome to publish the *Traité sur la tolérance*. This work had been ready for printing since January 1763 (according to D10931) but Voltaire did not want it to compromise the Calas rehabilitation by agitating unduly the parlement of Toulouse. The work added nothing more to the Calas case, repeating the facts, the flawed procedure, and the influence of fanaticism. Again, the parlement is not targeted: the judges were 'entraînés par le fanatisme de la populace' and 'des indices équivoques et les cris d'une multitude insensée ont surpris leur justice'. Only the eight majority judges are chastised for forcing Calas to perish 'sur les indices les plus faibles, contre les ordonnances de nos rois'. However, the work was not meant to be part of the campaign for the Calas rehabilitation, but rather a general plea for religious toleration in society.<sup>69</sup>

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<sup>68</sup> D11100, Voltaire to Anne Rose Calas (15 March 1763).

<sup>69</sup> It should also be noted that the *Traité* often based its plea in favour of civil toleration on socio-economic arguments such as the continuing economic consequences of the revocation of the Edict of Nantes for contemporary France, for example: 'Comptez surtout le nombre des officiers de terre et de mer, et des matelots, qui ont été obligés d'aller servir contre la France, et souvent avec un funeste avantage, et voyez si l'intolérance n'a pas causé quelque mal à l'Etat.' Cited in *Traité sur la tolérance*, p.73. This emphasis on the pragmatic benefits of civil toleration in the text was, according to Renwick, in keeping with 'the backbone of its political philosophy: liberté, commerce, prospérité' (p.71) and was particularly important as the target audience for the text was 'a small number of extremely influential people' (p.61), principally the *grands seigneurs* at Versailles.



The memory of Jean Calas was not finally rehabilitated until three years after his execution. In the intervening period another case of injustice through intolerance had seen the sentencing of another Protestant to death, this time for the alleged murder of his daughter. Luckily for Pierre Paul Sirven and his family, they managed to flee the jurisdiction of the parlement of Toulouse before the *procureur général*'s decree of *prise de corps* against them could be executed. On 20 March 1764 Sirven and his wife were condemned to death *in absentia*, their bodies burned in effigy the following September.<sup>70</sup> Voltaire was concerned with the Sirven case from an early stage but the affair was probably less pressing given the Sirven family's safety in exile. Even before the sentence against Sirven and his wife, Voltaire was organising for a *requête* in favour of the Sirvens to be forwarded to the vice-chancellor (D11706).<sup>71</sup> He praises the first president of Toulouse for his concern over the affair and his horror of fanaticism (D11706, D11713), further evidence that his problem was with particular judges who had been swayed either by their own intolerance or the fanaticism of the populace. Rather than representing a vicious and barbaric jurisdiction, the first president (and the vice-chancellor) are seen as partisans in the fight against fanaticism: 'on a besoin de tels hommes contre les fanatiques', he

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<sup>70</sup> It must be noted that the Sirven case is different from that of Calas in a number of ways. First, the sentence against the family was not passed by the parlement of Toulouse but by the seigneurial court at Castres. Second, as noted by Jean Bastier in 'L'affaire Sirven devant la justice seigneuriale de Mazamet', *Revue historique de droit français et étranger* 49 (1971), 601-11, the motivation for the condemnation was not purely religious as the owners of the seigneurial justice of Mazamet were bourgeois who were enemies of Sirven's best clients (Sirven was a specialist in feudal law). As owners of seigneurial justice of Mazamet, the bourgeois were liable for all costs. Bastier shows that the main concern for the judges of Mazamet was consistently the cost. This would explain the judicial anomaly that resulted, whereby Sirven and his wife were condemned to death and their daughters spared. Bastier wonders if 'la confiscation consécutive à la peine de mort n'était-elle pas le but réel des juges?' (p.608).

<sup>71</sup> René Charles de Maupeou was named vice-chancellor and *garde des Sceaux* in 1763 after the refusal of Lamoignon to step down from his position as chancellor.



informs Charles Manoël de Végobre.<sup>72</sup> In March 1763 Voltaire had intervened in order to hinder the distribution of Court de Gébelin's *Lettres toulousaines* which addressed both the Calas and Sirven affairs (D11134, D11141). Linking both cases at such an early stage would have been damaging to the Calas case, turning the focus away from fanaticism and towards 'Protestant justice', the idea that Protestants conspired to murder those wishing to abjure.<sup>73</sup> Only the final rehabilitation of Jean Calas allowed Voltaire to countenance an association between both cases among the public. On 15 March 1765 he tells Damilaville that 'il ne sera pas mal de publier la Lettre qu'un certain V. vous a écrite sur les Calas et sur les Sirven' (D12462). This 'Lettre' is the *Avis au public sur les parricides imputés aux Calas et aux Sirven*, a work essentially attacking fanaticism and in praise of tolerance. Having won over public opinion for Calas, Voltaire would use this favour to vindicate the Sirven family.

However strong public opinion was in favour of Calas, it could not affect the Toulouse parlement's reaction to the rehabilitation of his memory. On 20 March 1765, D'Alembert relates to Voltaire that 'Le Parlement de Toulouse est furieux [...] et veut casser l'arrêt qui casse le sien' (D12486). They did not go this far but did assemble to produce remonstrances<sup>74</sup> against the decision of the *Requêtes de*

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<sup>72</sup> D11713, Voltaire to Charles Manoël de Végobre (18 February 1764).

<sup>73</sup> Bien notes that this belief in 'Protestant justice' was influential in making the Toulouse public believe in the family's guilt. He states that the majority view among Catholics was 'that the entire family was guilty of parricide, and that this was an act thoroughly consistent with the teachings of Calvin' (p.124).

<sup>74</sup> These remonstrances focussed mainly on the judicial formalities of the decision. However, one of these requested that the king conserve the procession of 17 May each year which celebrated the massacre of between 2000 and 5000 Protestants on that date in 1562. Catholic Toulouse referred to it as 'La Délivrance'.

*l'hôtel*,<sup>75</sup> forbade the posting of the *arrêt* in favour of the Calas family and refused to enter it on their registers. One would think that this would have envenomed Voltaire's attitude and inspired him to express more than his hitherto gentle admonition of the parlement, but the most he can say is that 'Mrs [Messieurs – the *parlementaires*] me paraissent opiniâtres' (D12522). In a letter to Damilaville we see that Voltaire has great confidence in the justice of what has been done for the Calas family. He has heard that he may be admonished for his involvement in the affair but is able to retort, 'Il se trouve au contraire que c'est moi qui ai l'honneur d'admonêter tout doucement messieurs.'<sup>76</sup> He thinks that a victory in the Sirven case will make him and his allies 'très redoutables'. A similar confidence is evident where he states in the same letter, 'J'ai vu depuis peu des officiers et des magistrats qui ne sont point du tout Welches, et j'ai béni Dieu.' Later that month Voltaire tells Henri Cathala that 'l'affaire Sirven est plus sûre que celle des Calas' but warns that 'il y a encore dans le Languedoc un parti violent contre les Calas'.<sup>77</sup>

Over the following years Voltaire continued to work on the Sirven case reasoning that 'ces deux affaires [Sirven and Calas] présentées coup sur coup aux yeux de l'Europe indignée feront un effet prodigieux et forceront enfin le ministère à la tolérance que tout le public réclame' (D12567). In spite of his original fears over having Sirven return to have his case appealed before the parlement of Toulouse

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<sup>75</sup> This was a tribunal held in the royal court, composed of *maîtres de requêtes* (magistrates attached to the royal court who also fulfilled the role of *rapporteurs* in the the *conseil d'état*) who judged in the first instance cases relating to certain royal officers (e.g. the *secrétaires du roi* or officers of the royal household). This tribunal had jurisdiction over cases sent to it by the *conseil du roi*, which could include cases evoked to the *conseil* from the parlements, making it a jurisdictional rival of the parlement of Paris.

<sup>76</sup> D12543, Voltaire to Etienne Noël Damilaville (13 April 1765).

<sup>77</sup> D12567, Voltaire to Henri Cathala ([c.23 April 1765]).

(D14765), Voltaire was eventually happy to do so as he had heard that Toulouse had witnessed a 'révolution dans les esprits' (D15307) in recent years (D15444, D15490, D15327, D15444). While Voltaire's confidence in the parlement of Toulouse was perhaps a little premature – the case did not reach a just conclusion until May 1775 – the fact that he had such confidence is relevant. By early 1769, Voltaire did not feel, when confronted with the parlement of Toulouse, that he was dealing with an abhorrent and barbaric institution which insults born out of frustration might have suggested.<sup>78</sup> He was instead dealing with judges, some enlightened, others not so. The tragic miscarriages of justice that devastated the lives of the Calas and Sirven families did affect his view of the parlements. But the focus of this change of view was on its role as a channel for the dispensing of what was insufficient justice. Insufficient because of the archaic forms of the whole justice system and unjust because of the intolerance of certain members of its courts. These twin themes dominated this period of Voltaire's life and were reinforced by the case of the chevalier de La Barre at the parlement of Paris.<sup>79</sup>

### ***The Chevalier de La Barre before the Magistrates of Paris***

I have shown previously how the cases of Jean Calas and the Sirven family introduced a new aspect to Voltaire's concern for the increasing danger posed by the

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<sup>78</sup> D11040: 'assassins en robe noire'; D13551: 'parlement visigoth de Toulouse'.

<sup>79</sup> According to his secretary Jean Louis Wagnière, 'M. de Voltaire convenait jusqu'à un certain point d'excuser l'erreur des juges de Calas, par plusieurs raisons, telles que des indices trompeurs, des dépositions contradictoires de la part des accusés faibles et intimidés, celles non moins contradictoires de témoins plus ou moins trompés ou passionnés, des procès-verbaux d'experts ignorants, enfin cette prévention générale de la multitude contre ce malheureux vieillard. Mais on ne pouvait, selon lui, justifier la barbarie et le fanatisme des juges du chevalier de La Barre' (*Mémoires sur Voltaire et sur ces ouvrages*, 2 vols (Paris: A. André, 1826), i.88-89.

parlements of France. The twin concerns of archaic, insufficient procedures in criminal justice and the dominance of an intolerant attitude supported by Catholic fanaticism were highlighted even further by the shocking brutality of the judicial execution of Jean François Lefebvre, chevalier de La Barre. The case was also more important for Voltaire and more significant for his attitude towards the parlement of Paris because of the court's denunciation of the *philosophes* – Voltaire was named – as the inspiration for La Barre and his young friends' impiety.

During August 1765, the small and pious town of Abbeville, which fell within the jurisdiction of the parlement of Paris, witnessed two acts of sacrilege. A wooden crucifix which adorned a bridge in the town was mutilated while, at around the same time, the local graveyard was desecrated. Such was the gravity of these impieties that the bishop of Amiens descended upon the town promising eternal damnation for the perpetrators. A group of young noblemen was suspected as their lack of reverence had been noted previously: three of them had failed to doff their caps at a passing religious procession, and they had been overheard singing bawdy songs. As in the cases of Calas and Sirven, the statements of locals tended to confirm the presuppositions of investigators. By February 1766, La Barre found himself before a makeshift local tribunal, sentenced to death along with his absent co-accused, Jacques Marie Bertrand Gaillard d'Etallonde. On 1 July 1766, the chevalier was tortured, decapitated and burned with a copy of Voltaire's *Dictionnaire philosophique portatif*, one of a number of profane works found at his lodgings. The sentence had to be confirmed by the parlement of Paris before it could be executed. This court, which so often petitioned the king not to disregard legal formalities, was itself guilty of the same failing. La Barre appeared alone before twenty-five judges,



without counsel and *in camera*. The sentence was confirmed by a majority of five. The only form of appeal from this sovereign jurisdiction was to the king's grace, a pardon he failed to give.

Voltaire's belief that the translation of Cesare Beccaria's work on crime and punishment by the Abbé Morellet was having a positive effect on the parlements was thus shattered.<sup>80</sup> Voltaire did not learn of this injustice until after La Barre's execution (D13394). The sheer barbarity of the sentence affected him greatly. That is unquestionable (D13394, 13405, 13420, 13516). However, initially, his concern for the implication of the *philosophes* and the targeting of his *Dictionnaire philosophique portatif* was also very great. This work had caused a scandal in Paris when it appeared in 1764 (D12123) and Voltaire was soon informed that the parlement would burn it after the *rentrée judiciaire* (D12201). The *Portatif* particularly attracted the ire of Omer Joly de Fleury, *avocat général*, who drew up the indictment of the work (D12216) which was eventually condemned on 19 March 1765.<sup>81</sup> At the time, Voltaire considered this to be shortsighted, commenting to Damilaville that the 'parlement Welche [...] devrait sentir combien il serait de son intérêt de favoriser la liberté de la presse, et que plus les prêtres seront décrédités, plus il aura de considération' (D12216). Voltaire suggests that the *parlementaires* should support a work that was anti-clerical and the *Portatif* most certainly was. Christiane Mervaud has stated that the work was 'structuré en profondeur par son

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<sup>80</sup> D13371, Voltaire to Damilaville (23 June 1766). Cesare Bonesana Beccaria's *Dei delitti e delle pene*, (1764) was translated in 1766 by André Morellet as *Traité des délits et des peines*.

<sup>81</sup> D12216. See also *Dictionnaire Philosophique*, ed. Christiane Mervaud et al, *OCV*, vol.35 (Oxford: VF, 1994), p.54.



orientation anti-religieuse'.<sup>82</sup> During La Barre's trial before the parlement of Paris, the counsellor Denis Louis Pasquier, blamed philosophic works for influencing the young men of Abbeville.<sup>83</sup>

On the day of La Barre's execution, Voltaire wrote to the marquis d'Argence and, still unaware of the young *chevalier*'s death, pointed out faults in the procedure as well as the disproportionate nature of the sentence. His main point, however, was to impress on the marquis the impossibility of Pasquier's accusation that the young criminals had been inspired by philosophic works: 'S'ils en avaient lu ils ne seraient pas tombés dans un pareil excès' (D13383). For Voltaire, the experience of the condemnation of the *Encyclopédie* could not have been far from his mind. In a letter to Damilaville (D13384), the image of the persecuted Socrates recurs, as it had done in the 1750s. Even after hearing news of the execution, Voltaire's first reaction in addressing his *philosophe* correspondents is to Pasquier's accusations: 'Je me doutais qu'on attribuerait la plus sottise et la plus effrénée déraison à ceux qui ne prêchent que la sagesse et la pureté des mœurs' (D13394). On the same day he writes to Morellet. The letter is very revealing as to Voltaire's first instincts in the situation:

La dernière scène qui vient de se passer à Paris prouve bien que les frères doivent cacher soigneusement les mystères et les noms de leurs frères. Vous savez que le conseiller Pasquier a dit en plein parlement que les jeunes gens d'Abbeville qu'on a fait mourir, avaient puisé leur impiété dans l'école et dans les ouvrages des philosophes modernes. Ils ont été nommez par leur nom, c'est une dénonciation dans toutes les formes [...] Qu'un janséniste fanatique eût été coupable d'une telle calomnie, je n'en serais pas surpris; mais que ce soit un conseiller de grand'chambre, cela est honteux pour la nation. Le mal est que ces imputations parviennent au

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<sup>82</sup> *Dictionnaire de Voltaire*, p.54. Article 'Dictionnaire Philosophique'.

<sup>83</sup> Pomeau, «Ecraser l'Infâme», p.298.

Roy, et qu'elles paraissent dictées par l'impartialité et par l'esprit de patriotisme (D13397).

The execution of La Barre was initially seen as much an attack on the *philosophes* – which the condemnation of the *Encyclopédie* had certainly been – as a gross miscarriage of justice. As such, Voltaire's first task was to deflect blame, which he attempted to do by denying authorship of the *Dictionnaire philosophique* and attributing the nefarious influence on the boys to other 'ouvrages indécents' (D13405, D13502).

Notwithstanding these initial concerns, Voltaire's reservations and suspicions about the judgement and the legality of the case at the parlement of Paris were present at an early stage. On 12 July he asks Damilaville to mention the case to the Calas's lawyer, Elie de Beaumont as he does not know of any law 'qui ordonne la torture et la mort pour des extravagances qui n'annoncent qu'un cerveau troublé' (D13405). D'Alembert's letter to him on 16 July probably confirmed his suspicions by showing the disproportionate nature of the punishment, the young age of the offenders and the reservations of the papal nuncio (D13424). By the middle of August, Voltaire is sure that both the accusations against the *philosophes* and those against the young *chevalier* of Abbeville are false. 'Ils ont menti les vilains Welches, ils ont menti les assassins en robe', he declares to Damilaville, believing that the *Dictionnaire philosophique* was substituted for the pornographic *Portier des Chartreux* in order to spare the judges' blushes.<sup>84</sup> He fears now for his own future

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<sup>84</sup> D13500, Voltaire to Damilaville (18 August 1766). The *Histoire de dom B..., portier des Chartreux* was a pornographic and anti-clerical work by either Gervaise de La Touche or Nourry. See Robert

when 'les fanatiques triomphent' in such a manner: 'quel rôle jouera-t-il [Voltaire], quand l'ouvrage auquel il a travaillé 20 années devient l'horreur ou le jouet des ennemis de la raison? Ne sent il pas que sa personne sera toujours en danger.'<sup>85</sup> He is more collected and focused on La Barre's case the following day in a letter to the duc de Richelieu. Voltaire notes that eight lawyers were against the judgement and that ten of La Barre's judges decided against his execution. On the actions of the *parlementaires*, Voltaire says 'Je ne m'accoutume point à ce mélange de frivolités et de barbarie, des singes devenus Tigres affligent ma sensibilité, et révoltent mon esprit' (D13502). He repeats this image when informing the duchess of Saxe-Gotha, later that month, of the horrible affair which he feels is worthy of the twelfth-century. To this he adds another criticism, namely, that the parlement acted with such zeal against the purported sacrilege in order to prove its Catholicity, a characteristic it had previously sacrificed to its hatred for bishops (D13516).

During the month of July 1766, Voltaire wrote the *Relation de la mort du chevalier de La Barre*, which was presented as a letter from a lawyer to the marquis de Beccaria, author of *Dei delitti e delle pene*. The work relates the errors in the legal process which allowed the chevalier de La Barre and the young d'Etallonde to be sentenced to death but also points to necessary reforms in the criminal law of France. Voltaire's main issue with the judgement is the disproportionate punishment meted out to La Barre: 'N'est-ce pas le comble de la cruauté de punir ces discours secrets

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Darnton, *The Forbidden Best-Sellers of Pre-Revolutionary France* (New York and London: Norton, 1995), p.5-6.

<sup>85</sup> At this stage, Voltaire's plans for a philosophic colony at Clèves in Prussian territory had been forgotten as a fanciful notion but the failed project gives us an idea of the extent to which Voltaire felt threatened by the implications of the La Barre judgement (see D13434, D13440, D13442, D13476). In the aftermath of the La Barre judgement he had fled France from 14 July until 6 August (Pomeau, «Ecraser l'Infâme», p.304).

du même supplice dont on punirait celui qui aurait empoisonné son père et sa mère, et qui aurait mis le feu aux quatre coins de sa ville?’<sup>86</sup> Where the judges in the Calas case had been led into procedural errors by the baying intolerant masses, in La Barre’s case the judges had been simply wrong. They had relied incorrectly on a law of 1682 prescribing the death sentence for sacrilege, misinterpreting both the spirit and the letter of that law. They had made a policy judgement in punishing blasphemy that had produced more blasphemy as a result and a failure in justice: ‘Quelle politique imbécile et barbare! Ah! Monsieur, quel crime horrible contre la justice de prononcer un jugement par politique, surtout un jugement de mort!’ While the *Relation* was far from an *ad hominem* attack on those who had decreed against La Barre, it again shifted the focus closer to the insufficiencies of the French criminal justice system, and inevitably towards its guardians.

My use of the word guardians is perhaps misleading and anachronistic for in 1766 judges were owners of their offices. Therefore, Voltaire’s proposal for the abolition of venality which concluded his most comprehensive questioning of French criminal law, the *Commentaire sur le livre des délits et des peines*, was nothing less than an attack on the property of French judges. This work, which appeared in September 1766, showed Voltaire’s own reflections on the issues which Beccaria had treated in his *Dei delitti e delle pene* as well as implicit - and at times explicit - criticisms of the judges and laws that had decided the fate of Calas (chapter 22) and La Barre (chapter 5). Voltaire wished to abolish venality in order to guarantee standards in the judiciary: ‘On souhaite que le jurisconsulte puisse parvenir par son mérite à rendre la justice qu’il a défendue par ses veilles, par sa voix et par ses

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<sup>86</sup> *Relation de la mort du chevalier de La Barre*, M.xxv.501-16.



écrits.’ Other proposals for reform included greater uniformity in the laws of the kingdom so that sentencing would be consistent, and the setting of limits between the ecclesiastical and civil jurisdictions, the lack of which had caused so many disputes in the past. These proposals marked the culmination of the development of Voltaire’s ideas on criminal justice from the inchoate criticisms that followed the cases of Calas and Sirven to the more confident assertions which the failings of La Barre’s judges seemed to necessitate.<sup>87</sup>

### ***La Chalotais before the Tribunal of Public Opinion***

At this point in the discussion of Voltaire’s developing critique of the French justice system it is useful to examine his reaction to another case which came before the French courts during this period, that of the *procureur général* of the parlement of Rennes, Louis René de Caradeuc, seigneur de La Chalotais.<sup>88</sup> La Chalotais first came to Voltaire’s attention for his condemnation of the Jesuits, but he was to become better known throughout France as the main victim of a conflict between royal authority and provincial privilege in the *pays d’état* of Brittany. The other famous name from the ‘Brittany affair’ was that of the duc d’Aiguillon, the

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<sup>87</sup> The case of the comte de Lally, a Franco-Irish officer and commander of French forces in India during the Seven Years’ War, also pointed out some of the flaws with French judicial procedure. Lally had been a violent, unsavoury and unsteady character in his post and in spite of early successes against the English, he was eventually captured at Pondichéry. He was returned to the French and put on trial at the parlement of Paris. Voltaire knew that Lally was no saint but did not believe him to be a traitor (D13345, D13347, *Précis du siècle de Louis XV*, chapter 34). Voltaire’s major complaint with the case was the fact that no reasons were given for the judgement (D13326, D13327, D13345, D13347, D13369), a fact that would inspire his later ideas on reform as expressed in the article ‘Lois’ of the *Questions sur l’Encyclopédie*: ‘Peut-être les arrêts de mort ne seront exécutés qu’après un compte rendu au souverain, et les juges ne dédaigneront pas de motiver leurs arrêts, à l’exemple de tous les autres tribunaux de la terre.’

<sup>88</sup> La Chalotais (1701-85) entered the parlement in 1730 as *avocat général* and was named *procureur général* by letters patent of 12 May 1752. He became a marquis by letters patent of 1776.



commander-in-chief of the province since 1753. Over the four years of this affair (1766-70) both men, representatives of the parlement and the crown, respectively, had charges brought against them and were the subjects of eventually aborted judicial processes, neither being fully exonerated by the sovereign courts. An examination of Voltaire's reaction to flawed judicial practice from a different perspective, one which does not present Voltaire as the defender of the oppressed against the inhumane parlements, should tell us more about his ideas on justice at a time when he was continuously involved in defending victims of France's criminal laws.

First, it must be noted that from the earliest days of Voltaire's awareness of the Breton magistrate, he viewed him as a *philosophe*. Both Thieriot and D'Alembert informed the *philosophe* of Ferney in 1763 that La Chalotais had produced two important pamphlets against the Jesuits,<sup>89</sup> which La Chalotais himself sent to Voltaire (D10437). Voltaire responded with praise for the magistrate's work (D10580, D10599) and with what was perhaps a backhanded compliment, that his *comptes-rendus* against the Jesuits were the only philosophical works to have come from the bar (D10447). Never one to give opportunity a wide berth, Voltaire was quick to request help from this *parlementaire* for his Genevan associate, Henri Cathala, who had helped Voltaire with the Calas case and who was then having difficulties in obtaining satisfaction in a financial matter from one of the sovereign courts (D10599), a satisfaction La Chalotais duly helped in providing (D11086).

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<sup>89</sup> D10357, Thieriot to Voltaire (3 March 1762), D10398, D'Alembert to Voltaire (31 March [1762]). La Chalotais's first *compte-rendu* against the Society of Jesus appeared on 1 December 1761; the second on 21 May 1762, one week before the parlement at Rennes decreed the dissolution of the Jesuits.

With the demise of the Society of Jesus in France, the question of education was of crucial importance given the great influence the Jesuits had in providing instruction to the young. La Chalotais, aware that the baby should not be thrown out with its ultramontane bathwater, did not delay in producing a plan for national education (*Essai d'éducation nationale, ou Plan d'études pour la jeunesse* (1763)) which he delivered to the parlement of Brittany on 24 March 1763. The manuscript reached and delighted Voltaire (D10795) who suggested that he could have it printed in Geneva (D11051). Voltaire's enthusiasm was not simply confined to his direct correspondence with the *procureur général*, an indication that he saw La Chalotais as more than simply a useful new acquaintance: 'Que dieu nous donne des procureurs généraux qui ressemblent à celui là,' Voltaire exclaimed to Damilaville (D10794). Voltaire's friendly advice and criticism shows a paternal attitude of encouragement towards this new partisan of *philosophie*.<sup>90</sup> For example, Voltaire is honest with him, saying that he does not know why he includes a reference to the Leibnizian Emmerich de Vattel in his work on education (a reference La Chalotais would later remove) and disagreeing with him about the need for a more literary style in his work. Voltaire also shares his publishing experience with this new convert to the fashion of the century, informing him that his marginalia would be better as titles: 'Cela délasse les yeux et repose l'esprit' (D11051). When Voltaire does finally receive a printed version of the treatise on education (26 June 1763), he praises La Chalotais's influence, stating that he has made the instruction of children an object of

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<sup>90</sup> La Chalotais's discourse in his letters to Voltaire also proves his philosophic credentials. D11086 (11 March 1763): Here he denounces fanaticism saying that it will fall as soon as it is revealed. He also informs the defender of Calas that such a miscarriage of justice would never have happened in Brittany (D11145).

government. He fears, however, that a better chancellor is needed to carry out the plan, suggesting that the Breton magistrate would be a suitable candidate for this post at the head of the judiciary (D11273).

The issues surrounding the tumultuous *Etats provinciaux* of Brittany in 1764 and their effect on already strained relations between the parlement at Rennes and the *de facto* governor of the province need not be addressed in great detail here. Suffice it to say that a misunderstanding over the perception of the 2 *sols pour livre* in the province during the *Etats provinciaux* saw the parlement of Brittany support the Estates and suspend by *arrêt* (26 April 1765) the collection of this tax. Within a week, this *arrêt* was annulled by the *conseil du roi*, prompting 76 of the Breton magistrates to resign. These magistrates were placed under house arrest by *lettres de cachet* on 28 May 1765 and by November, those perceived as being the leaders of the rebellion, La Chalotais and his son among them, were imprisoned at Saint-Malo. While the duc d'Aiguillon attempted to populate a new parlement at Rennes with loyal magistrates, a judicial commission took over the functions of the old court. This commission began to collect evidence against the imprisoned magistrates, who had been accused in the letters patent of 16 November 1765 of involvement in 'assemblées illicites [et] des correspondances suspectes' and of '[des] discours les plus séditieux'; La Chalotais was accused of having written 'des billets anonymes injurieux à notre personne et attentatoires à la majesté royale'.<sup>91</sup> The former *procureur général* would never be judged on the charges against him (some ridiculous, others less so) and the case against him showed a blatant disregard for established judicial procedure, thus provoking the pedantic and partisan ire of the

parlement of Paris. The imprisoned magistrates would spend the rest of Louis XV's reign behind bars.

Public opinion regarding the Brittany affair in general was greatly affected by two *mémoires* penned (using a toothpick and ink made from vinegar, sugar and soot, as the story goes<sup>92</sup>) by La Chalotais during his incarceration at Saint-Malo, appearing on 13 January and 17 February, respectively. D'Alembert informed Voltaire on a number of occasions of the effect of these pathetic writings on the Parisian public (D13490, D13522, D13724) which he explained as follows: 'Il paroît que tous les gens du métier conviennent que toutes les règles ont été violées dans la procédure qu'on a faite contre lui, et que le Roi, si plein de bonnes intentions a été bien indignement et bien odieusement trompé dans cette affaire. Toute la France en attend la décision, et en attendant, ses persécuteurs sont l'objet d'exécration publique.'<sup>93</sup> Of Voltaire's correspondents, those who addressed the issue echoed the public mood of outrage at the treatment of La Chalotais, many of them seeing his ordeal and the apparent contempt for justice that surrounded it in the same light as that of the young chevalier de La Barre. At the end of July, Damilaville decried a nation in which one day fanaticism burned the young (a reference to La Barre) and the next, the situation in which La Chalotais found himself could occur: 'Un vieillard de soixante cinq ans que la calomnie précipite chargé de fers dans des cachots [...] On dit que le roi a lu ces mémoires qui m'ont fait verser des larmes de sang [...] Quoiqu'il en soit dites moi, après avoir lu ces écrits, s'il est une seule action de la vie la plus innocente et la

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<sup>91</sup> Cited in André Zysberg, *La Monarchie des lumières* (Paris: Seuil, 2002), p.300.

<sup>92</sup> According to the *Mémoires secrets* (1 August 1766).

<sup>93</sup> D13522, D'Alembert to Voltaire (29 [October 1766]). In reference to La Chalotais's first *mémoire* written in captivity, the *Mémoires secrets* (13 August 1766) report that it 'fait un bruit du diable'.

plus vertueuse qui puisse être pratiquée en sûreté.’ If this could happen, nobody was safe: ‘Qui est ce qui ne tremblera dans sa chambre pour le coup, étant seul?’<sup>94</sup> The whole letter speaks of a fear of despotism at its most brutal. Diderot personally feared the ferocious beast that he felt would, sooner or later, devour him as it had done others, giving as examples La Barre and La Chalotais, ‘un magistrat respectable à tous égards, parce qu’il refusoit de conspirer à la ruine de sa province, et qu’il avoit déclaré sa haine pour la superstition et le despotisme.’<sup>95</sup> Voltaire also makes the connection between the fate of the victims of the French justice system, but only until such time as he has read La Chalotais’s *mémoires*.<sup>96</sup> Perhaps it was the implicit attack on the behaviour of royal representatives in Brittany or simply the confrontational nature of La Chalotais’s piece that made Voltaire consider that this was not a miscarriage of justice in which he could comfortably ally himself with the victim.

Whatever the reason, Voltaire could do nothing but privately pity a fellow *philosophe*. His attitude is perhaps best summed up in a letter to D’Alembert, who was usually privy to the more personal feelings of Voltaire on public issues, inasmuch as anyone could be allowed to see beyond the layers of masks and subterfuge that concealed his private thoughts: ‘Vous pensez bien mon vray philosophe que mon sang a bouilli quand j’ay lu ce mémoire écrit avec un curedent, ce curedent grave pour l’immortalité. Malheur à qui la lecture de cet écrit ne donne pas la fièvre. Il doit au moins faire mourir d’apoplexie le..et le..et le...N’admirez

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<sup>94</sup> D13464, Damilaville to Voltaire (31 July 1766).

<sup>95</sup> D13605, Diderot to Voltaire ([c.10 October 1766]).

<sup>96</sup> D13469, Voltaire to Damilaville (4 August 1766) and D13475, Voltaire to the D’Argentals (6 October 1766). He had received one of the *mémoires* by 11 October 1766 (D13487).



vous pas les sobriquets que le sot peuple donne à certains gens! C'est donc de tous le côtés à qui se couvrira d'horreur et d'infamie!' He also mourns the young La Barre but concludes, 'Gardons pour nous notre douleur et notre indignation; gardons nous le secret de nos coeurs.'<sup>97</sup> Elsewhere, the secrets of his heart remain hidden, and he seems to criticise the tactics adopted by both La Chalotais and the parlement of Paris, which supported him. His blood was barely simmering as he informed Damilaville: 'J'ai lu le mémoire de l'homme éloquent dont on plaint le malheur. Il ne paraît pas qu'il ait voulu adoucir ses ennemis.'<sup>98</sup> On reading the *mémoire* of Calonne,<sup>99</sup> who had been personally attacked by Chalotais in his *mémoires*, Voltaire concedes that 'il est en effet approuvé par le roi; ainsi m. de Calonne est justifié dans tout ce qui regarde son ministère. Le public n'est juge que des procédés qui sont fort différents des procédures.'<sup>100</sup> Voltaire is pleased with the evocation of the case by the king's council, as there he is 'sûr de l'équité le plus impartiale',<sup>101</sup> but we have seen the irregular and undesirable results of that procedure, which Voltaire failed to address. If Voltaire felt he could not support La Chalotais, even in his private correspondence, resigning himself to a questionable faith in the handling of the case by the king, he could certainly become vocal by the end of 1766, but on behalf of the crown rather than its provincial *procureur*. The failure of the crown to exonerate La Chalotais prompted the parlement of Paris to call for the convening of the peers, an excess of which Voltaire could easily disapprove (D13758, D13764). It is significant that all

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<sup>97</sup> D13485, Voltaire to D'Alembert ([c.10 August 1766]).

<sup>98</sup> D13487, Voltaire to Damilaville (11 August 1766).

<sup>99</sup> Charles Alexandre de Calonne was *procureur général* of the judicial commission that began the collecting of evidence against La Chalotais and his co-accused.

<sup>100</sup> D13562, Voltaire to Damilaville (16 September 1766).

<sup>101</sup> D13720, Voltaire to Damilaville (8 December 1766)

these letters which show unconditional support for the crown were addressed to Damilaville, perhaps with the intention that their content be repeated as the official Voltairian position on the case of La Chalotais, or in order to hint at Damilaville the kind of response that the *philosophes* should adopt. Given Damilaville's reaction to the case, which we have seen above (D13464), Voltaire's letters to him are surprisingly insipid. Less than a month after Damilaville's outpouring of grief at the horrible injustices that dominated French society at the time, Voltaire could send the following message to him: 'Toute notre famille souhaite d'autant plus de bien a ce magistrat qu'il nous a traités fort bien dans une affaire que nous avions a Rennes, il y a quatre ans' (D13498). Such a platitude, referring to the magistrate's help with Henri Cathala's financial dealings which had come before the parlement, borders on the callous when we consider the circumstances.

In order to explain this failure to act against an injustice which other *philosophes* viewed in the same light as the judicial execution of La Barre, we must look to the broader circumstances in which Voltaire found himself in 1766. Over the preceding years, he had worked tirelessly for the rehabilitation of Calas relying on the good will of the *conseil du roi* to re-examine this miscarriage of justice. Voltaire's first reaction to the incarceration of La Chalotais is found in a letter to D'Alembert in which he expresses his enthusiastic reception of the king's *discours* at the so-called *séance de la flagellation*.<sup>102</sup> This confirmation of the ideals of an absolute monarchy, which was far from absolute in practice, could only please someone who remained nostalgic for the great or strong monarchs of the past. Louis

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<sup>102</sup> D13205, Voltaire to D'Alembert ([12 March 1766]): 'M. de la Chalotais sortira brillant comme un cygne de la bourbe où l'a fourré; il a trop d'esprit pour être coupable.'

XV was no Henri IV, nor was he a Louis XIV, but he was Voltaire's king, and Voltaire was a monarchist. Voltaire was also an independent thinker, a *philosophe*, which brought him into conflict with many elements in a society that still operated under the suffocating yoke of the Roman Catholic Church. This church and the parlements, the latter still suffused with the influence of the former, policed the lives of the king's subjects in his name and in the name of God. Both church and parlement found much to fault in Voltaire's writings, but he knew that his salvation lay in his cultivation of a network of protectors that reached the foot of the throne. The kingdom of Voltaire's only potential saviour *was* of this earth. Voltaire knew that French justice tended towards the arbitrary and that nobody was free from the royal authorities' arbitrary missive of choice, the *lettre de cachet*, and La Chalotais's predicament confirmed this. In such circumstances, *sauve qui peut* was the motto of the wise man. The denunciation of the *Dictionnaire philosophique* during the trial of the chevalier de La Barre was a very dangerous reminder of the threat that French society still posed to Voltaire and confirmed to him the need to curry favour with the public authorities. Voltaire's great fear was that the king would be convinced that the *philosophes* were dangerous enemies. (Indeed, many of Voltaire's writings during and after this period could be seen as attempts to prove the opposite, namely, that those who would convince the king of the *philosophe's* heterodoxy were themselves more dangerous to the peace and stability of the kingdom.) This is perhaps the answer to a very important question hinted at but unanswered by Besterman, who pointed out that after the *séance de la flagellation*, Voltaire's choice of correspondents to whom he expressed his approval of the king's *discours* was significant: 'D'Alembert, Damilaville, mme Du Deffand, and Florian: in other

words, Voltaire approved of the king's flagellation of the parlement, and wanted everybody in all circles to know that he did. Why he wanted them to know it is another question.'<sup>103</sup> That the king should find out, or be convinced by the pious creatures that surrounded him that action needed to be taken against the *philosophes*, could potentially put Voltaire at great risk. In these circumstances, Voltaire heard of the harsh treatment received by La Chalotais and as a result, an almost mournful self-imposed silence<sup>104</sup> on the issue over the nine long years of his incarceration was a small price to pay for freedom from association with opposition to royal authority, as the Breton magistrate symbolically represented. In fact, even before the case of La Chalotais had become a rallying point for the *parlementaires*, Voltaire was aware that the magistrate's views on the history of the monarchy was at odds with orthodox royalist historiography.

Worthy of note in the early Voltaire-La Chalotais correspondence is that the historical understanding of this influential *parlementaire* and that of Voltaire diverged. On hearing that Voltaire was to print a new edition of his *Essai sur l'histoire générale*, La Chalotais proposed to send him some notes on the origins of the parlement (D11086). In response to this offer, Voltaire is thankful but expresses his belief – confirmed in his historical *œuvre*, most notably in the *Histoire du parlement de Paris* – that all origins are fabled or obscure (D11117). Unfortunately,

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<sup>103</sup> Besterman, *Voltaire*, p.304.

<sup>104</sup> Voltaire hardly mentions La Chalotais again, except when prompted to do so by letters from others. A story related to him by a Breton *avocat*, Royou (D16202), who was a brother-in-law of Fréron, would only confirm for him the nature of the case against La Chalotais (the story was repeated in Voltaire's *Anecdotes sur Fréron*). Fréron, who was acting as a spy, accused Royou of writing in support of La Chalotais and managed to procure a *lettre de cachet* that imprisoned him, in revenge for Royou's opposition to Fréron's squandering of his (Royou's) sister's dowry. Eight years after La Chalotais's imprisonment there is a quiet fatalism in Voltaire's recounting of the magistrate's situation



no record of these notes on the parlement is extant, but we can judge from the accompanying letter that they represented something other than a royalist interpretation of French history. La Chalotais warned Voltaire in April 1763, 'Vous sentirés en le lisant que j'ai le plus grand intérêt à n'être cité pour rien à cause de quelques principes qui y sont contenus. Au reste ce ne sont que des observations indigestes qui gagneroient bien à passer par vos mains. Je les crois au fonds très véritables' (D11145). What appears to be Voltaire's response is a letter that Besterman has editorially dated as 11 July 1762, but it seems more likely that it was written on the same date in 1763.<sup>105</sup> Here, Voltaire questions the equation of the parlement and the *Etats généraux*, an historical narrative cultivated on the parliamentary fringes of French historiography since the Fronde. Voltaire asserts that 'aucune cour supérieure ne représente la nation dans aucun pays de l'Europe. Comment la France seule aurait elle établi ce droit public? [...] Je suis assez de l'avis d'un Anglais qui disait que toutes les origines, tous les droits, tous les établissements, ressemblent au *plum pudding*.' Such assertions, which Voltaire felt were simply untrue, were becoming more common since the emergence of Le Paige's *Lettres historiques* in 1753-54 and could be seen as contributing to Voltaire's view that an examination of the history of the parlements was necessary.<sup>106</sup>

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to his cousin, the marquis de Florian: 'La Chalotais obéit quand la maréchaussée le traîne en prison à Loches, à l'âge de soixante et quatorze ans, pissant le sang, écorché de gravelle' (D18838).

<sup>105</sup> D10580, Voltaire to La Chalotais (11 July [1762]). In this letter Voltaire discusses parliamentary history but its place in the sequence of letters between the two correspondents is questionable as at this stage (July 1762) no mention had yet been made of the parlement's history and La Chalotais had not yet offered Voltaire his notes. In fact, his extant correspondence suggests that Voltaire had only received one letter from the magistrate by that date (D10437).

<sup>106</sup> Another example of this historical view can be seen in a work by the marquis de Bélestat (*Examen de la nouvelle histoire de Henri IV*, de Monsieur de Bury (Geneva: C. Philibert, 1768)) which stated that at the first Estates of Blois deputies of the three estates declared, with the approbation of the king that 'les parlements sont des états généraux au petit pied'. Voltaire would eventually deny the



### **Voltaire: Historian of the Parlements of France**

Voltaire's interest in the writing of the parlement's history is notable over two discreet periods during the 1760s. The first of these periods is confined to the time surrounding the emergence of the 1763 edition of the *Essai sur l'histoire générale*, while the second precedes the publication of *the Histoire du parlement de Paris* in 1769. Chapter 59 of the *Essai* dealt with the internal government of France from 1750 to 1762. In 1768 this became chapter 36 of the *Précis du Siècle de Louis XV* and was followed by a chapter dealing with Damiens's attack on the king. This subject matter was dangerous territory, for we have seen how Voltaire's view of the parlement developed over the same period. He had ridiculed the conflicts between the parlements and the clergy and had been horrified by Damiens's attack. The parlements were dangerous, disloyal and shared the fanaticism of an all too powerful church. How could Voltaire express this view and still call the result history? How could he avoid an impassioned tirade and produce an objective assessment? One could say that Voltaire aimed to produce in his history, the equivalent of the literary effect produced by the protagonists of his *contes*, *Zadig* and *Candide*. *Zadig* did not show the folly of the court, nor *Candide* the flaws of philosophical optimism by launching into tirades. Instead, their untainted naivety acted as a foil for human folly. In a similar fashion, the passage of time bears silent witness to human failings.<sup>107</sup> By

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accuracy of this claim (in a less than convincing fashion as we shall later see) in the *Histoire du parlement de Paris*, chapter 29.

<sup>107</sup> D11158, Voltaire to the D'Argental (9 April 1763). As Voltaire says of his *Essai sur l'histoire générale*, 'je peins le genre humain assez en laid pour le rendre ressemblant.' And on the parlement, 'leur irrégularité paraissent sans aucune trait de satire.'

simply holding up the actions of the church and parlement and recounting the results with the benefit of hindsight, Voltaire would go some way towards ridiculing the subjects of his inquiry. Add to this the turns of phrase and rhetorical effects of a literary genius and the result is Voltaire's history. Not objective history, not polemics, but polemical flesh on objective bones; critical history, from Voltaire's heart.

Voltaire's letters show that, as in so many other areas of his life and work, tactics were essential in rendering his histories effective. By effective, I mean fulfilling their duty to both historical fact and Voltaire's intentions. To state that Voltaire is being objective in his writings about the parlement at the time would be inaccurate, as it would ignore the calculated approach taken by him. At the start of January 1763, prior to the emergence of the new edition of the *Essai sur l'histoire générale*, Voltaire tells Damilaville that he has removed an article in which he contests the rights of the parlement 'quoique je sois bien persuadé que le parlement n'a aucun droit sur les privilèges du sceau; mais je ne veux point compromettre mes frères' (D10875). Here, Voltaire's self-censorship is in contrast with the chapter we have just mentioned above: 'D'ailleurs dans le petit chapitre des billets de confession et des querelles parlementaires et épiscopales, j'ai dit assez rondement la vérité.' Voltaire's feeling that he has held back, while at the same time telling what is essentially the truth makes for an interesting conception of Voltarian historical truth when we consider the extent to which this truth is – as I have said above - polemical flesh on objective bones.

The amount of leeway Voltaire allows himself at the fringes of historical truth is increased further in his plans for the chapter on Damiens. He tells the

D'Argentals that he has inserted 'des choses très flatteuses pour le parlement [...] et je dis expressément, *Le parlement faisait voir qu'il n'avait en vue que le bien de l'état et qu'il croyait que son devoir n'était pas de plaire, mais de servir*. En un mot, j'ai tourné les choses de manière, que sans blesser la vérité, j'ai tâché de ne déplaire à personne.'<sup>108</sup> In the same letter another example of Voltaire's self-censorship can be found. He knows from the judicial records he had procured that Damiens claimed he was moved to attack the king by the *lit de justice* of 13 December 1756, but decides on a prudent omission as 'le parlement serait fâché qu'on vît dans l'histoire ce qu'on voit dans le procès verbal'. The following month, Voltaire sends Damilaville a completed version of his *Essai* adding that 'messieurs doivent être content, à moins qu'ils ne soient extrêmement difficile'. His actual concern for their reaction is then contradicted by two further statements. He tells his correspondent 'D'ailleurs j'aime la vérité, et je ne crains point messieurs.' Discussion of an historical point about the nobility of certain counsellors completes the transformation, prompting Voltaire to state bravely, 'Quand on écrit l'histoire, il faut dire la vérité, et ne point craindre ceux qui se croient intéressés à l'opprimer' (D11000). Voltaire later explains the apparent contradiction: 'en qualité de critique et d'historien vous savez que la vérité est mon premier devoir, et la dire sans déplaire aux gens de mauvaise humeur c'est la pierre philosophale' (D11158).

What, then, is the nature of Voltaire's historical truth? Invariably, his letters contradict each other regarding his apprehension about the reaction of the parlement of Paris to his references to the court's history and, inevitably, this affects the

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<sup>108</sup> D10985, Voltaire to the D'Argentals (6 February 1763). In any case, this did not appear in the final version.

definition of truth at a given time. It would be nice if we could believe Voltaire at his most assured and laconic: 'Le parlement est puissant, mais la vérité est plus fort que lui' (D11158). Unfortunately, from timorous and accommodating (D11181) through to defiant (D11196), Voltaire is unconvincing in his contradictions. This is perhaps one of the best examples of the dangers involved in relying on cherry-picked quotes to prove a point about Voltaire. Perhaps the most we can say is that, at his most defiant, Voltaire's statements are as much about convincing himself of his ability to rely on truth as believing he can (D11283 is a good example). At the other extreme, his concern for the reaction of the parlement is genuine and does motivate him (we see this one week later in D11300), if only to distance himself from that day when he might have to rely on his truth alone. Similarly, Voltaire's historical truth lies somewhere between the extremes of an adherence, unfailing in act or omission, to objective fact and to the polemics of a progressive 'man of action'. It is generally objective as to facts but full of intent as to their presentation and intended interpretation.

Voltaire had obviously continued to amass notes on the history of the parlement, which general inquiries into French history would have brought to his attention. A letter of April 1763 shows Voltaire's understanding of the parlement's rights. He states ironically,

Je veux bien qu'on décrète un quidam qui pouvait prouver que le parlement n'a aucun droit de faire des remontrances que par la pure concession des rois, et qui ne l'a pas dit, qui pouvait prouver que les enregistrements ne viennent que des *regestra* des compilations qu'on s'avisa de faire sous Philippe le bel, des *olim*, de l'habitude enfin qu'on prit de tenir registre (habitude qui succéda au trésor des chartes), qui pouvait éclaircir cette matière, et qui ne l'a pas fait (D11174).

Again, Voltaire has held back. It is most likely this information on the parlement's history that Voltaire has sent to the duc de Choiseul. It must certainly have been something significant for Choiseul to reply requesting Voltaire to 'imprimer les notes que vous m'envoyez sur les parlements. Pareilles recherches, venant de vous, feraient plus d'impression dans le public que si elles étaient publiées par le ministère' (D11424). Choiseul continues, exhorting his correspondent to produce something on the courts with warnings of the potential weakening of public credit by the parlements' resistance to fiscal measures. However, Voltaire is not seduced. This letter may lend credence to the notion that Voltaire's *Histoire du parlement* was written at the instigation of the ministry.<sup>109</sup> Pomeau has stated that the claim is 'sans fondement' because the ministry itself was divided over how best to deal with the parlement. In support of this, Pomeau cites Maupeou's intransigence and Choiseul's parliamentary sympathies, although this letter suggests that Choiseul's attachment to the court was simply tactical.<sup>110</sup> Notwithstanding Pomeau's refutation, the amount of time that elapsed before Voltaire did finally compile his notes on the court in the form of the *Histoire du parlement*, seems to break the chain of causation. In his introduction to the critical edition of the *Histoire du parlement de Paris*, John Renwick states that no evidence from the period 1767-68 supports the claim, originally made in the *Mémoires secrets*.<sup>111</sup>

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<sup>109</sup> An idea first suggested by the *Mémoires secrets* (17 July 1769) and repeated, adding that materials were not supplied by the ministry, by Voltaire's secretary Wagnière, *Mémoires sur Voltaire*: 'M. de Voltaire n'a point reçu de matériaux, pour la composition de cette ouvrage, de la part du ministère, comme on l'a dit dans le temps, mais il est bien vrai qu'il l'a fait à son instigation et à celle d'un prince' (i.299).

<sup>110</sup> Pomeau, «Ecraser l'Infâme», p.400.

<sup>111</sup> *Histoire du parlement de Paris*, ed. John Renwick, *OCV*, vol.68 (Oxford: VF, 2005), p.49.



The exact timescale for the writing of the *Histoire du parlement* is not obvious from Voltaire's letters. Besterman states that Voltaire was clearly planning, if not already writing, the *Histoire* in January 1768.<sup>112</sup> His letter to the lawyer Servan of 13 January (D14668) appears as a résumé of his views on the history of French law, suggesting his preoccupations at this time. Voltaire praises Servan's recent *discours* in parlement and sees him as a new breed of lawyer whose reliance on reason allows him to 'se placer entre l'inutile fatras de Grotius, et les saillies de Montesquieu.' The letter addresses some of the same issues of legal reform as his *Commentaire sur des délits et des peines*, such as the assumption of guilt in France (unlike in England) and disproportionate sentencing (he mentions La Barre and d'Etallonde). Inferior jurisdictions are confusing and ridiculous - 'des cours supérieures pour le vin et pour la bierre, un auguste sénat pour juger si les fermiers généraux doivent fouiller dans la poche des passants' - while 'dans les premiers corps de l'état que de droits équivoques et que d'incertitudes.' Voltaire lists some of these uncertainties: 'Les pairs sont ils admis dans le parlement, ou le parlement est il admis dans la cour des pairs? Le parlement est il substitué aux états généraux? Le Conseil d'état est-il en droit de faire des lois sans le parlement? Le parlement a-t-il le droit d'interpréter les loix anciennes et reconnues?' Regarding the laws of the kingdom, Voltaire must conclude that 'tout [est] fait chez nous au hazard et à l'aventure'. This attack on normative history is one that Voltaire makes repeatedly in

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<sup>112</sup> D14668, Commentary.

the *Histoire du parlement*.<sup>113</sup> The basic problem seems to be that the law does not rule in France: 'en France presque toutes les prérogatives sont ou usurpées ou contestées. On n'y jouit pas même des droits qu'on a reçus de la nature. Personne n'est parmi nous à l'abri d'une lettre de cachet ou d'un jugement par commissaires.' When the laws are barbaric, arbitrary and uncertain, when jurisdictions lie undefined, when even the status of the main legal authority in the kingdom is open to question, then something must be done. Voltaire urges Servan to continue his work in jurisprudence to reveal these fundamental failings.

This letter is probably the first occasion on which Voltaire synthesised his fundamental problems with the law in France, and from the point of view of an historian. The cases of Calas, Sirven, La Barre and Lally had had an effect on Voltaire's perception of the French criminal justice system. They forced him to see the inadequacies therein because of its archaic procedures and unenlightened personnel. As an historian of humanity, Voltaire had seen the folly of all those societies that had gone before him. As an historian of contemporary France, in what he believed to be its most enlightened age, he saw this folly repeated - the conflict over *billets de confession*, the fanaticism of Damiens - for the same reasons: religious fanaticism. Add to this *tableau* the sporadic judicial strikes over the period 1750 to 1768, the unhistorical pretensions of the courts, their opposition to necessary taxes, not to mention Voltaire's personal frustrations at these pedantic and pious censors.

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<sup>113</sup> *Histoire du parlement de Paris*, p.145: 'La science de l'histoire n'est que celle de l'inconstance, et tout ce que nous savons bien certainement, c'est que tout est incertain'; He continually repeats the fact that all institutions and rights change over time, making historical claims invalid: p.145, 149-150, 167, 459, 466.

The cumulative effect of all these issues left the law and its enforcer, the parlements, sullied in Voltaire's eyes.

This letter to Servan is unusual as, generally, one of the striking features of Voltaire's treatment of the parlements in his correspondence is the extent to which he treats the different elements of the courts' remit in almost total isolation. In criticising the parlements as dispensers of justice, he makes no reference to their remonstrances on the finances. When he discusses them as censors of his works, he ignores their staunch Gallicanism. The letter of January 1768 to Servan was possibly the first time he took a step back and viewed the parlements in their full capacities. The result was less than flattering for the courts. A letter to D'Alembert of March 1769 (D15516), soon after Voltaire had sent his manuscript of the *Histoire du parlement* for publication (around Christmas 1768)<sup>114</sup> shows the result of his recent all-encompassing view of the parlements:

Il semble qu'il y ait des corps faits pour être les dépositaires de la barbarie, et pour combattre le sens commun. Le parlement commença son cercle d'imbécillité en confisquant, sous Louis XI, les premiers livres imprimés qu'on apporta d'Allemagne, en prenant les imprimeurs pour des sorciers: il a gravement condamné l'*Encyclopédie* et l'inoculation. Un jeune homme qui serait devenu un excellent officier, a été martyrisé pour n'avoir pas ôté son chapeau, en temps de pluie, devant une procession de capucins.

The reason for Voltaire's new perspective in both D14668 and D15516 is his approach to the corporation as an historian. The reasons enumerated by Pomeau

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<sup>114</sup> *Histoire du parlement de Paris*, p.58-9.

explaining Voltaire's writing of the *Histoire du parlement*, namely, 'Incertitude du statut, et à partir de là usurpations, prises de positions séditieuses, sentences iniques',<sup>115</sup> seem to be the result of Voltaire's examining of the parlement's history as much as the reasons for writing it. It is not just that the actions of the parlement, their pretensions or their barbarity forced Voltaire into writing their history, but also that Voltaire's continued historical inquiry over the parlement's most active period, revealed that the laws on which the parlement's claims relied were never certain, that their conservatism was not new and that their influence was always potentially dangerous for the crown. If Voltaire could not carry out the project that he announced for Servan, he could at least reveal, through the *Histoire du parlement de Paris*, the basis for its necessity and validity.

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<sup>115</sup> Pomeau, «Ecraser l'Infâme», p.386.

## CHAPTER 4

### ***The Histoire du parlement de Paris***

We have seen in chapter 3 how the cumulative effect of Voltaire's changing view of the parlement's role and its ability to carry out this role effectively, coupled with his historical research over this period, convinced him of the need to write the *Histoire du parlement de Paris* (1769). This work was the first modern treatment of the subject and, to a certain extent, set the tone for subsequent studies of this important institution of the *ancien régime*. This chapter will look at the historiography of the parlements before turning to the critical appraisal of Voltaire's parliamentary history. This will be followed by a close textual analysis of the *Histoire du parlement*, which will examine Voltaire's rhetoric of opposition to the so-called pretensions of the parlement of Paris. But before I address these questions, a brief discussion of the parlements' pretensions is necessary in order to understand the political context into which Voltaire's work was released in 1769.



## ***The Pretensions of the Parlements to a Political Role***

It is generally accepted that from at least the early 1750s onwards, and perhaps earlier, a loosely formed and increasingly militant group of magistrates began to espouse notions of the parlement's role in the state, hitherto the stuff of 'republicans'. Historians of the period and some contemporaries pointed to Jansenists.<sup>1</sup> Dale Van Kley has shown the way in which genuine Jansenist religious sentiment fused with parliamentary Gallicanism to form a locus of opposition to the monarchy. The latter, inspired by the clergy, desired nothing less than the eradication of Jansenism.<sup>2</sup> The very nature of Gallicanism as a parliamentary doctrine meant that the crown's attitude to it would always be pragmatic rather than supportive or enthusiastic. Louis XIV had allowed the Assembly of the Clergy of 1681 to adopt the four Gallican articles that confirmed the independence of the French church from Rome in certain matters, and the parlement had registered them enthusiastically in March 1682. One of the main results of this legislation was the impossibility of the Pope, or the ecclesiastical authorities, having cognisance of the civil laws in France. The four articles confirming the 'Liberties of the Gallican Church' were the result of a conflict between Louis XIV and the papacy over the *régale*, the king's right to enjoy the revenues of vacant bishoprics and archbishoprics. When relations with the papacy later necessitated loyalty as opposed to independence, Louis purported to

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<sup>1</sup> Egret, *Louis XV et l'opposition parlementaire*, p.58: Egret states that leaders of the Jansenist and Gallican opposition in the parlement of Paris took over the function of drafting the *grandes remontrances* of 1753, a job normally carried out by the first president. According to Barbier's *Journal*, the parlement 'est janséniste au fond du cœur' (ii.71); See also, Maire, *De la cause de Dieu à la cause de la Nation*; Swann, *Politics and the parlement of Paris*, p.37; Rogister, *Louis XV and the parlement of Paris, 1737-1755*, p.20; Dale Van Kley, *The Jansenists and the expulsion of the Jesuits from France*, p.56-57.

<sup>2</sup> See Van Kley, *The Jansenists and the expulsion of the Jesuits from France*, p.40-41.

rescind the Gallican articles, informing Pope Innocent XII that he had ordered that the edict of 1682 be no longer observed, but the parlement refused to accept such an attack on laws to which it had become attached because of the importance they bestowed on their protector. The bull *Unigenitus* had been rejected by the parlement of Paris on Gallican grounds, and at the height of the controversy surrounding Cardinal Fleury's attempts to have it recognised in France as a law of the church and the state, a pamphlet entitled *Judicium francorum* (1732) emerged. This piece had been adapted from a similar pamphlet written during the Fronde and made assertions as to the parlement's role in the state that even the court itself could not defend.<sup>3</sup> The parlement of Paris condemned the work on 13 August 1732. The pamphlet distinguished between monarchy and despotism, claiming that French monarchy was not despotic as it was tempered by aristocracy. The result was that the parlement could legitimately resist arbitrary acts such as evocations<sup>4</sup> and the establishment of judicial commissions, which denied the parlement its role as judge. While publicly denouncing such propositions as seditious on 13 August,<sup>5</sup> the magistrates had

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<sup>3</sup> The *Mémoire touchant l'origine et l'autorité du Parlement de France, appelé Judicium Francorum* (1732) was a more extreme version of the constitutional theory that Louis-Adrien Le Paige would later espouse. It asserted that the parlement had a continuous existence since the establishment of the French monarchy; it referred to the Conseil d'Etat as 'une espece de juridiction nouvelle et insoutenable [...] opposée directement à la Loi fondamentale du Royaume'; it claimed that the exile of magistrates, even after their refusal to register a law, was a violation of the fundamental laws; it even contested the right of the provincial parlements to share the name 'Parlement' with that of Paris.

<sup>4</sup> The king could deny the parlement cognisance of certain affairs, evoking them directly to his council. During the Fronde, one of the first articles decided on by the assembled chambers of the parlement of Paris in 1648 was the interdiction of evocations by the *conseil d'état*. According to Marion, 'Les progrès ou les reculs du pouvoir royal pourraient se mesurer à peu près exactement au nombre et à la facilité des évocations.' (*Dictionnaires des institutions*, p.226)

<sup>5</sup> *Arrêt de la Cour du Parlement qui ordonne qu'un libelle intitulé Mémoire touchant l'origine et l'autorité du Parlement de France, appelé Judicium Francorum sera laceré et brûlé* (13 August 1732). The parlement was particularly critical of the way this pamphlet purported to praise the parlement and 'relever ses prérogatives, comme si elle connoissait pour elle d'autre grandeur et d'autre gloire que le dépôt inviolable de cette Autorité sacrée, qu'il plu à nos Rois de lui confier.' Note that it sees the defence of the king's authority as the defence of its own authority.

remonstrated on 4 August regarding the recent affairs concerning *Unigenitus*, one of their reasons being that the king's orders 'sembleraient emporter une espèce d'évocation des appels comme d'abus sur toutes les matières qui sont aujourd'hui les plus importantes.'<sup>6</sup> At this stage the discourse of the magistrates in condemning the *Judicium francorum*, still strongly supportive of monarchical authority, had not yet caught up with its actions, which became increasingly recalcitrant and would continue to be so over the 1730s and 1740s. According to Jeffrey Merrick:

Theological controversy surrounding *Unigenitus* spawned decades of constitutional dissension because the clergy, the parlements, and the crown identified their stands on issues raised by the bull with the defense of their own prerogatives in the corporate kingdom. Their disagreements about the denominations of the bull and the administration of the sacraments added up to something more than empty 'disputes over words', for they argued not only about the definitions of words but also about the right to define them.<sup>7</sup>

The lawyer and Jansenist, Louis-Adrien Le Paige has been widely credited with, at the very least articulating, if not influencing, this change in how the parlement defined its position *vis-à-vis* the crown.<sup>8</sup> The arguments of his two-volume *Lettres historiques sur les fonctions essentielles du Parlement, sur le droit des pairs et sur les loix fondamentales du royaume* (1753-54) began to appear in the pamphlets

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<sup>6</sup> Flammermont, *Remonstrances*, i.283. The parlement had previously remonstrated about evocations on 9 January 1731 (i.232-43).

<sup>7</sup> Jeffrey Merrick, *The Desacralization of the French Monarchy in the Eighteenth Century* (Baton Rouge: Louisiana State University Press, 1990) p.71.

<sup>8</sup> No biography of Le Paige exists, but he is cited in every work on parliamentary opposition as a hard working Jansenist lawyer playing a highly influential role in the defence of Jansenist and parliamentary interests. On Le Paige's political activities see David Bell, *Lawyers and Citizens: The Making of a Political Elite in Old Regime France* (New York: Oxford University Press, 1994) p.113-23, 141-43, 148-49; Elie Carcassonne, *Montesquieu et le problème de la constitution française au XVIIIe siècle* (Geneva: Slatkine, 1927), p.271-77; Van Kley, *The Jansenists and the expulsion of the Jesuits from France*, p.65-69, 73-75, 77-79, 108-109, 118-21, 184-91.

of pro-parlement polemicists and parliamentary remonstrances as the conflicts between the king and his sovereign courts escalated.<sup>9</sup> If the origin of the parlements' opposition cannot be located exactly, the fact of their newfound purpose is unquestionable. Government propagandist, Jacob-Nicolas Moreau, was one of the first to recognise the damaging effects of this new parliamentary discourse on royal authority.<sup>10</sup> Keith Michael Baker describes Moreau's *Principes de conduite avec les parlements* - a memorandum aimed at government ministers - as 'a powerful blueprint for ideological action in defense of the absolute monarchy.'<sup>11</sup> The parlement's remonstrances through the 1750s and 1760s made three main points with which the crown took issue. First, they claimed that the laws of France were based on a contract between the king and the nation. The result of such a claim was that the laws could not be modified without the consent of the nation. In 1760, the parlement of Rouen affirmed this necessity: 'Il est de l'essence d'une loi d'être acceptée. Le droit d'accepter est le droit de la Nation. Ce droit vainqueur du temps et des préjugés, ce droit autrefois l'âme du Gouvernement français, subsiste encore malgré les efforts conjurés des passions intéressées à l'anéantir.'<sup>12</sup> Le Paige's historical research asserted that the establishment of the parlement of Paris was coeval with the monarchy itself; the sovereign courts were the descendants of the ancient 'assemblées générales de la nation', the Frankish assemblies that met on the *champ de mars* and *champ de mai*. This genealogy would entitle them, in the absence of the *Etats Généraux*, to represent the nation and give or refuse consent to legislation on

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<sup>9</sup> Flammermont, *Remonstrances*, ii.xv.

<sup>10</sup> Baker, *Inventing the French Revolution*, p.59-85.

<sup>11</sup> Baker, *Inventing the French Revolution*, p.59.

<sup>12</sup> 'Remonstrances du 10 mai 1760', Cited in Roger Bickart, *Les Parlements et la Notion de Souveraineté Nationale au XVIIIe Siècle* (Paris: Felix Alcan, 1932), p.75-76.



behalf of the nation. In 1763, the parlement of Toulouse clearly invoked this historically legitimate right in stating that ‘ce n’était point pour être les approbateurs muets des volontés de leurs maîtres que nos pères se rendaient aux champs de mars sous Clovis et ses premiers successeurs’.<sup>13</sup> Second, the parlement consented to the making of a law through its registration of that law in parliamentary chambers. Perhaps the most extreme claim of this nature by a parlement was made in 1756, by the parlement of Rouen, when it stated that ‘aucun acte n’est revêtu des formes nécessaires pour lui donner force de loi, s’il n’est vérifié en vos parlements, auxquels appartient exclusivement le droit de communiquer aux lois la dernière forme essentielle à leur autorité.’<sup>14</sup> While the parlement of Paris may not have expressed itself so boldly, the same idea was present in its remonstrances, particularly during the Seven Years’ War.<sup>15</sup> Third, in the wake of the *Grand Conseil* affair (1755-56), the parlements, seeing a threat to their powers from this court whose jurisdiction extended over the whole kingdom, adopted another of Le Paige’s historical fictions, claiming that the parlement of Paris and its sister courts in the provinces were merely different parts of one national body. As proof of this claim, the parlement of Paris relied on a speech given in 1560 by the chancellor de l’Hôpital in which he had stated that the parlements of France ‘ne forment qu’un même corps et ne sont que

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<sup>13</sup> ‘Remonstrances du 22 décembre 1763’, Cited in Bickart, *Les Parlements et la Notion de Souveraineté Nationale*, p.76.

<sup>14</sup> ‘Remonstrances du parlement de Rouen du 26 juin 1756’, cited in Amable Floquet, *Histoire du parlement de Normandie*, 7 vols (Rouen: E. Frère, 1840-42), vi.468.

<sup>15</sup> Flammermont, *Remonstrances*, ii.274: In response to the crown’s enforcement of a third *vingtième* and other fiscal edicts the parlement asserted that ‘toute administration dans l’Etat est fondée sur les lois. Il n’en est aucune sans un enregistrement libre, précédé de vérification et d’examen’. According to the parlement of Paris, its free registration of edicts was ‘la plus grande et la plus importante de toutes les fonctions, la plus intimement unie à la constitution même de la Monarchie, celle dans laquelle se peignent le plus essentiellement et l’empreinte de la majesté royale et l’image du concours de la nation’ (ibid., ii.74).



différentes classes du Parlement du Roi'.<sup>16</sup> The provincial parlements would follow suit in their remonstrances.<sup>17</sup>

Against the pretensions of the parlement the crown made the following claims: Sovereignty resides within the person of the King, who is answerable to God alone. The sovereign and the nation are one, and, therefore, the rights of the nation are in the hands of the sovereign. The parlements have no role in law making as the king alone has legislative power. Therefore, the king can demand the registration of a law after hearing remonstrances. The parlement has no means to stop such forced registration. The parlements do not form one single body that can trace its existence back to the establishment of the monarchy. Each one was established by successive monarchs and granted a separate jurisdiction. Louis XV's *discours* at the *séance de la flagellation* summed up the royal response to the parlement's pretensions, stating that the enemies of the throne were those within the parlement who claimed:

que tous les parlements ne font qu'un seul et même corps, distribué en plusieurs classes; que ce corps, nécessairement indivisible, est de l'essence de la Monarchie et qu'il lui sert de base; qu'il est le siège, le tribunal, l'organe de la Nation; qu'il est le protecteur et le dépositaire essentiel de sa liberté, de ses intérêts, de ses droits; qu'il lui répond de ce dépôt, et serait criminel envers elle s'il l'abandonnait; qu'il est comptable de toutes les parties du bien public, non seulement au Roi, mais aussi à la Nation; qu'il est juge entre le Roi et son peuple; [...] que les parlements coopèrent avec la puissance souveraine dans l'établissement des lois.<sup>18</sup>

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<sup>16</sup> Flammermont, *Remonstrances*, ii.73.

<sup>17</sup> See Bickart, *Les Parlements et la Notion de Souveraineté Nationale*, p.152-56.

<sup>18</sup> Flammermont, *Remonstrances*, ii.557.

These distinct and opposing interpretations of the 'fundamental laws' of France were, in the absence of an actual Constitution, merely constructions born out of confrontation. It must be remembered that the examples above of opposing parliamentary and monarchical discourse were extremes; consensus was a more frequent feature than confrontation. In reality, the only laws fundamental to the crown were confined to the way in which that crown was passed down hereditary lines respecting the rule of primogeniture. The kingdom that came with that crown would also have to remain intact, meaning that the inalienability of the royal domain was also a fundamental law. Apart from these principles, according to Marcel Marion, 'chacun entendait par lois fondamentales ce qu'il lui plaisait'.<sup>19</sup> The result is that the understanding of what constituted a fundamental law of the kingdom was essentially ideological. Was the parlement's right to the free registration of edicts a fundamental law? Was it even a practice that had acquired legitimacy over time? The answer to both of these questions is certainly 'No', and yet, in practice, the only way for the royal government to force the registration of edicts which the parlement still refused to register having heard the king's response to its remonstrances, was to register it at a *lit de justice*, a royal ceremony which was not originally intended for such autocratic legislative acts.<sup>20</sup> Eventually the parlement would even protest against the abuse of this royal ceremony<sup>21</sup> and continue to resist the solemnly

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<sup>19</sup> Marion, *Dictionnaire des Institutions*, article 'Lois Fondamentales'.

<sup>20</sup> Sarah Hanley, *The Lit de Justice of the Kings of France: Constitutional Ideology in Legend, Ritual, and Discourse* (New Jersey: Princeton University Press, 1983), p.5.

<sup>21</sup> Flammermont, *Remonstrances*, ii.275 ('Remonstrances sur le lit de justice du 20 septembre 1759'). In its remonstrances against the *lit de justice* of 31 May 1763, the parlement protested against the crown's accumulation of separate edicts which were enforced on one occasion. This manner of proceeding was 'un abus ajouté à toutes les autres innovations plus anciennes qui ont absolument dénaturé les usages des lits de justice' (ii.345).

enforced legislation. Was its continued resistance a fundamental right? Could the crown do any more than accept this resistance? Again, the answer to both these questions must be 'No'. In such circumstances, any analysis of the period which attempts to decide questions that were unclear to contemporaries, or which imposes fundamental laws on the period that the historical actors would not have recognised, becomes inevitably ideological. An historian might say that the monarchy was right because it had a stronger historical argument for its interpretation of the fundamental laws; another might respond that the parlement was within its rights to oppose the monarchy's constantly increasing tax demands as, in the absence of the *Etats généraux*, it was the only body that could represent the taxpayers, however inadequately. It is perhaps for this reason that the historiography of the parlements is marked by such ideological analysis, which can often do little more than take sides in a 250-year-old argument.

### ***The Historiography of the Parlements***

Voltaire's *Histoire du parlement de Paris* was, perhaps, the first modern treatment of the development of this judicial institution of the *ancien régime* and despite its polemical intentions, the broad brushstrokes with which it paints the emergence and vicissitudes of the court's influence since the thirteenth century were accurate, if positioned. In fact, Voltaire's emphasis on the non-normative nature of history would have corresponded to much later and more objective analyses of the court's history, had not his purpose in attacking normative history been the destruction of the parlement's claims to a political role based on questionable

historical precedents. Soon after the Revolution, Sénac de Meilhan produced *Du gouvernement et des mœurs et des conditions en France avant la Révolution* (1795), in which he shared Voltaire's non-normative approach to the institutional history of the *ancien régime*, stating that the parlement's power and influence grew through habitual employment and by accident.<sup>22</sup> He also recognised that remonstrances and free registration were not fundamental rights but had developed over time (p.79-80). Like Voltaire, he realised that the parlement was at its most powerful during the more turbulent periods of France's history (p.80-81) and that it did not have any mandate to represent the nation (p.81). And yet in spite of these similarities – Voltaire and Sénac de Meilhan (who had been intendant of La Rochelle, Aix and Hainault) express the same fundamental understanding of the court's nature – their conclusions diverge significantly. The difference comes down to one of perspective, and essentially, one of ideology. Post-Revolution, Sénac de Meilhan could accept the historical inaccuracy of the recently disbanded parlement's historical claims (as he would have done as an intendant), but with his hindsight, he sees an inevitability in the need for representative government in the later years of the monarchy. While he states, as Voltaire did, that the courts did not have the right to intervene in the administration of finances or government, he is forced to conclude that 'dans les temps postérieurs, il [the parlement] fut par le fait substitué aux anciens Etats-Généraux' (p.83) and that the magistrates became 'intermédiaires par le fait entre le Trône et les Peuples' (p.84). He excuses them the venality of their charges ('un gage de l'éducation et d'une fortune qui préservoit de la dépendance des Grands') and

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<sup>22</sup> Gabriel Sénac de Meilhan, *Du gouvernement et des mœurs et des conditions en France avant la Révolution* (London: B. & J. White, 1795), p.78-86.

their attempts to conserve and augment their power as this was in the nature of all institutions; instead, he implicitly blames the government for not being sufficiently 'ferme, économe' and 'éclairé' (p.85). Voltaire drew the opposite conclusions from the same historical overview, denouncing venality and denying the court a representative role.

The nineteenth century saw a particular interest in histories of the provincial parlements. Such an emphasis on the local courts (and, inevitably, their opposition to the crown) encouraged a view of these institutions as necessary defenders of their local communities and of local privileges in the face of a royal authority, while at the same time recognising their importance as representatives of sovereign authority in the provinces.<sup>23</sup> This contradictory position could be explained by the fact that these parliamentary historians were themselves provincial legal officers. Such a position leads them to show a certain amount of pride in their judicial forebears, while not forgetting the respect ultimately due to the laws of an indivisible France. For example, G.-M.-L. Pillon's work on the parlement of Flanders emerged just after the Revolution of 1848, but as he states in his *avertissement*, 'Je n'avais d'ailleurs aucun sacrifice à faire à des idées de circonstance; à mes yeux, sous la république, plus encore que sous tout autre régime, le triomphe de tous les droits généraux et individuels doit être efficacement protégé, et cette garantie doit se mesurer à l'esprit

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<sup>23</sup> Vicomte Bastard d'Estang (former *procureur général* of the *Cour Royale* at Riom), *Les Parlements de France*, 2 vols (Paris: Didier, 1858); Charles-Bon-François Boscheron des Portes (*Président* of the *Cour d'Appel* of Bordeaux), *Histoire du Parlement de Bordeaux: depuis sa création jusqu'à sa suppression, 1451-1790* (Bordeaux: C. Lefebvre, 1877); Floquet (*Greffier en chef* of the *Cour Royale*), *Histoire du parlement de Normandie*; Claude Malteste, *Anecdotes du parlement de Bourgogne, ou Histoire secrète de cette compagnie depuis 1650* (Dijon: J.-E. Rabutôt, 1864); Gabriel-Maximilien-Louis Pillot (counsellor at the *Cour d'Appel* of Douai), *Histoire du Parlement de Flandres* (Douai: A. d'Aubers, 1849).



de corps, à la vitalité et à la stabilité de la magistrature.’ Unlike these works, heavily influenced by respect for judicial tradition, Larousse’s *Grand Dictionnaire Universel du XIXe Siècle*, suffused with the spirit of 1789, cast a more critical eye on the courts, borrowing heavily in the article ‘Parlement’ from Voltaire’s *Histoire du parlement*. Not only are citations and facts taken from the *philosophe*’s work, the article is as cynical about the courts’ pretensions as Voltaire had been.

What seems to be a feature of historians’ reactions to the courts is the extent to which their familiarity with the functions of these important judicial institutions is reflected in their willingness to recognise more than their mere judicial role. Those who have focussed on the courts’ history have nearly always had a certain amount of sympathy with their pretensions.<sup>24</sup> Conversely, those who have focussed on royal authority and the personalities of royal government have seen the courts as an obstacle to efficient administration because of these very pretensions and the parlements’ resulting opposition.<sup>25</sup> Until recently, these two opposing theses have dominated the historiography of the parlements. Notable exceptions include Jean

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<sup>24</sup> Jules Flammermont, *Le chancelier Maupeou et les parlements* (Paris: A. Picard, 1883) and *Les Remontrances du parlement de Paris*; E. Glasson, *Le Parlement de Paris: son rôle politique depuis le règne de Charles VII jusqu’à la révolution*, 2 vols (Paris: Hachette, 1901); Edouard Maugis, *Histoire du Parlement de Paris: De l’avènement des rois Valois à la mort d’Henri IV*, 3 vols (Paris: Picard, 1913).

<sup>25</sup> Michel Antoine, *Louis XV* (Paris: Fayard, 1989); Pierre Gaxotte, *Le siècle de Louis XV* (Paris: Fayard, 1933); Marcel Marion, *Machault d’Arnouville. Etude sur l’histoire du contrôle général des finances de 1749 à 1754* (Paris: Hachette, 1891); François Olivier-Martin, *L’Absolutisme français suivie de Les Parlements contre l’absolutisme traditionnel au XVIIIe siècle*, 2<sup>nd</sup> edn (Paris: LJDJ, 1997). Olivier-Martin was a professor at the law faculty of the University of Paris between 1921 and 1951 and, according to the *avertissement* of this re-edition, was attracted by the stability of monarchical government because of the great instability of the Third Republic and Vichy France. His work, like that of his student, Roger Bickart, show the influence of the positivist legal tradition which could not have accorded the parlements their pretensions as they did not correspond to the positive laws of the *ancien régime* (which, however, were at variance with the practice of politics during the period).

Egret's *Louis XV et l'opposition parlementaire* (1970), which, while keen to show the representative nature of the parlements' opposition, does not deny their often self-interested and conservative nature. While French-language histories of eighteenth century France have generally failed to move beyond the Manichean dichotomies which see the sovereign courts as either champions of the rule of law in the face of monarchical tyranny or selfish and obscurantist defenders of caste privileges,<sup>26</sup> British historians have provided the most recent and most interesting departures in this area.<sup>27</sup> J.H. Shennan's *The Parlement of Paris* (1968) provided an historical overview that spanned the entire history of the court and, recognising the parlement's important political role, showed that the origin of conflicts with the crown lay not necessarily in self-interested parliamentary opposition but in the attempts by both parties to define their respective roles and areas of competence: 'Every move of this sort, from whichever side it came, was potentially a source of serious conflict, for the traditional ideal of French sovereignty lawfully exercised by the monarch could only function effectively when the boundary between the authority of king and Parlement remained imprecise.'<sup>28</sup> In the past fifteen years, the research of Peter Campbell, Julian Swann, and John Rogister has contributed greatly to the way in which the conflicts between the crown and the parlements are now viewed. The image of an 'absolute' monarchy confronted with *ancien régime* elites who sought a share of its absolute power, has been replaced by a limited monarchy,

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<sup>26</sup> See André Zysberg, *La monarchie des Lumières, 1715-1786* (Paris: Seuil, 2002) for a recent French example of the latter position.

<sup>27</sup> Of course, Keith Michael Baker's work on competing discourses during the reign of Louis XV, monarchical and parliamentary among them, should not be forgotten, nor the effect of these discourses on an emerging 'public opinion'. See *Inventing the French Revolution*.

<sup>28</sup> Shennan, *The Parlement of Paris*, p.261.

forced into concessions, collusion and appeasement by the same elites.<sup>29</sup> Rogister focuses in his monograph on the ways in which the issues surrounding *Unigenitus* and its application could erupt or be quelled depending on the personalities and factions involved. Such a system of government was 'constantly endangered by personal intrigues and rivalries and also by changing circumstances at court and in Parlement.'<sup>30</sup> Peter Campbell, dealing with a similar historical period to Rogister, also underlines the importance of factions and personal relations in the workings of a state apparatus which, while absolute in name, was far from absolute in practice. Rather than seeing a crisis emerge in the 1750s, Campbell prefers to look at the period 1718-1771 as 'one coherent period of crown-parlement relations'. He sees the parlement's behaviour as remarkably consistent over this period and puts crises down to the 'failures of management resulting from divided and ill-prepared ministries under a vacillating monarch.'<sup>31</sup> Similarly, Julian Swann's work analyses the extent to which individual personalities, and the factions to which they belonged, affected the relations between crown and parlement, showing how these political relations, constructed under tacitly recognised rules, could disintegrate so quickly. Swann is particularly critical of the Manichean dichotomies that characterise analyses of the *ancien régime*, whether representing reactionary judges opposing a reforming bureaucracy or a clash between competing discourses or ideologies. While more

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<sup>29</sup> While this revisionist view has clearly become the orthodoxy, John Hurt, focussing on Louis XIV's reign, adds a corrective: 'Any statement characterizing the Bourbon system as inherently limited or conciliatory ought to contain a modifying clause, dependent or main, to make clear that there was something 'absolute' about the monarchy after all.' (*Louis XIV and the Parlements: The Assertion of Royal Authority* (Manchester and New York: Manchester University Press, 2002), p.ix.

<sup>30</sup> Rogister, *Louis XV and the Parlement of Paris*, p.52.

<sup>31</sup> Peter Campbell, *Power and Politics in Old Regime France, 1720-1745* (London and New York: Routledge, 1996), p.294, 295.

recent works have managed to look beyond such black and white interpretations, it has taken Voltaire scholars until very recently to do the same.

### ***Critical Interpretations of Voltaire's Histoire du parlement de Paris***

Until recently there has been little interest in Voltaire's *Histoire du parlement de Paris*. It has been generally recognised as an historical work of minor significance.<sup>32</sup> Certain commentators have accepted Voltaire's work as 'objective'.<sup>33</sup> David Hudson has gone so far as to describe it as 'not propaganda but a fair history of the parlement'.<sup>34</sup> Those who have looked closer have noted Voltaire's anti-*parlementaire* rhetoric. Nuci Kotta, while accepting that on a factual level the work is 'reliable and fair-minded', is well aware that Voltaire has 'an axe to grind'.<sup>35</sup> More recently, Diego Venturino has rightly stated that 'par l'histoire, il prétend réfuter les théories des parlementaires et réduire à néant leurs prétentions'.<sup>36</sup> The recent publication of John Renwick's critical edition of Voltaire's *Histoire du parlement de Paris* provides a much-needed re-examination of the work, challenging convincingly the traditional disengaged interpretations that I have mentioned above. In his

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<sup>32</sup> John Henry Brumfitt, *Voltaire: Historian* (London: Oxford University Press, 1958). This work makes only passing reference to the *Histoire du parlement* (p.70-71). The *Histoire* does not even feature in René Pomeau's *Œuvres historiques* (Paris: Gallimard, 1962); Diego Venturino, 'Histoire et politique: quelques réflexions autour de l'Histoire du parlement de Paris', in *Voltaire et ses combats*, ed. Ulla Kölving and Christiane Mervaud, 2 vols (Oxford: Voltaire Foundation, 1997), ii.1371-1378: 'Quoiqu'il constitue un effort historiographique sérieux, cet ouvrage n'est certes pas un chef d'œuvre' (p.1372).

<sup>33</sup> Pomeau, «Ecrasez L'Infâme», p.401: 'severe mais objectif'; Gay, *Voltaire's Politics*, p.317: 'remarkably informative and objective'.

<sup>34</sup> David Hudson, 'In defence of reform: French government propaganda during the Maupeou crisis', *FHS* 8 (1973-74) 51-76 (p.67).

<sup>35</sup> Nuci Kotta, 'Voltaire's *Histoire du parlement de Paris*', *SVEC* 41 (1966) 219-30 (p.223).

<sup>36</sup> Venturino, 'Histoire et politique: quelques réflexions autour de l'*Histoire du parlement de Paris*', p.1373.



introduction to the volume, Renwick states that ‘Ce sont leurs [the parlements] prétentions politiques qui sont à l’origine de *l’Histoire du parlement de Paris*, et qui en expliquent les lignes de forces’.<sup>37</sup> While Renwick does accept that Voltaire is ‘un partisan de l’autorité royale’ (p.97), he poses certain questions that tend towards a re-opening of the question of Voltaire’s politics. How, for example, does Voltaire’s text invite the reader to define the power relations between king and parlement in the eighteenth century? This question is more complex than it seems and leads Renwick to pose another: ‘Se pourrait-il que, loin d’être un partisan inconditionnel de la position d’un Louis XV assailli par des gens détestables, Voltaire – dans son for intérieur – se range plutôt du côté de ceux [...] qui estimaient que sa tactique vis-à-vis des parlementaires récalcitrants étaient fautive?’ (p.98).

Renwick notes that Voltaire’s history does not live up to what others have described as an objective history. First, Voltaire has a cavalier attitude to sources. Second, he has simplified his historical narrative, omitting elements that do not sit well with his thesis. To this Renwick adds that Voltaire has a ‘capacité à minimiser, voire taire ou éliminer la part de responsabilité du monarque dans le déclenchement ou le déroulement d’événements qui ont pu mériter des jugements plutôt défavorables’ (p.84). In spite of these criticisms, Renwick is content that ‘les chapitres que consacre l’auteur au Moyen Âge et au XVI<sup>e</sup> siècle (chapitres I-XXXIV), où les renseignements sont hautement instructifs et où l’enquête est en gros impartiale, sont à de rares exceptions près au dessus de toute remarque critique

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<sup>37</sup> *Histoire du parlement de Paris*, ed. John Renwick, in *OCV*, vol.68 (Oxford: Voltaire Foundation, 2005), p.60. All references to the text of the *Histoire du Parlement* refer to this edition.



immédiate' (p.77). This is perhaps one of the reasons why he decides to focus his analysis mainly on Voltaire's presentation of the more recent history of the parlement. He justifies this choice by referring to Voltaire's engagement in what some have seen as a battle for public opinion on the nature of the French constitution in the eighteenth century: 'Étant donné que cet ouvrage était destiné à un public cultivé de 1769 dont Voltaire cherchait l'acquiescement et l'adhésion (car la cause était de taille), bornons-nous à esquisser la manière dont il présente la vie politique mouvementée d'un passé beaucoup plus récent' (p.85).

Certainly, the cultivated public who consumed so many editions – six in 1769 alone – of the *Histoire du parlement* would have been very interested in Voltaire's interpretation of recent political events. However, the field of contestation in eighteenth century France was not just political, it was above all historical. Those who supported absolute monarchy unconditionally would not be swayed by discussions of eighteenth century relations between crown and parlement. Nor would supporters of a stronger political role for the parlements be influenced by an apparently impartial recital of recent difficulties. To favour the crown's position over that of the parlements, or vice versa, was simply to take a side. However, to look to history was to claim validity for this opinion. Voltaire's *Histoire du parlement* is now seen as a work whose very purpose is the refutation of parliamentary pretensions. It is a work that systematically refutes the historical basis for these pretensions by presenting a contradictory historical model. While the amount of attention given to the eighteenth century parlement may be inversely proportional to the seriousness of eighteenth century political problems, it must be remembered that these problems were fuelled by the recent resurgence of a *parlementaire* attitude

based on their historical role. Certainly, the question of *Unigenitus* did great damage to relations between crown and parlement, but would the disagreements over the bull have been sustained had not both sides felt it their duty by history, tradition and the fundamental laws to sustain their respective positions? Would the practical reasons of parliamentary Jansenism and royal Molinism have been sufficient without that sense of duty to a legal-historical tradition? I would suggest that it is the fundamentally historical basis of the conflicts between crown and parlement that demands that we accord even greater importance to Voltaire's treatment of less contemporary parliamentary history. Moreover, the contemporary resonance of many of Voltaire's historical arguments compounds this fact. For these reasons, I shall focus initially on the chapters of the *Histoire du parlement* dealing with the Middle Ages until the start of Louis XV's reign.

In doing so, I shall examine the sources and facts relied on by Voltaire and show how they are invariably used to diminish the authority, jurisdiction or historical claims made by the parlements or by advocates of their greater political role in the kingdom. Voltaire seems to have achieved this with ease, showing French history as one where chance established custom only to be usurped by usage or destroyed by force. This historical epistemology is in direct opposition to those who would claim that the origins of the parlements of France are to be found in the old Frankish assemblies that gathered on the *champ de mars* and *champ de mai*. Diego Venturino describes Voltaire's *Histoire du parlement* as an attack on the very notion of normative history: 'Le pyrrhonisme historique est mis au service d'une dissolution de l'argument de la tradition dans la bataille politique. Il ne s'agit pas là d'une surenchère polémique, visant exclusivement les parlements. L'ensemble du travail

historique de Voltaire peut être vu, entre autres, comme une réécriture de l'histoire de France pour en neutraliser définitivement la valeur normative.'<sup>38</sup> It seems that Venturino has taken the argument to its limits. First, he does admit that Voltaire is using history as a legitimising tool: 'Voltaire accepte ainsi explicitement le terrain des adversaires, celui de la légitimation politique par l'histoire et par la tradition; il accepte, en principe, le caractère normatif de l'histoire' (p.1373). Second, I must disagree with Venturino because at times, in an effort to question the status of the parlement, Voltaire is forced to rely on the historical continuity of other institutions whose claims to that continuity are equally questionable. In short, the polemical intent of Voltaire's *Histoire du parlement de Paris* is clear when we examine in detail his systematic refutation of *parlementaire* pretensions, which are particularly noticeable in the early chapters of his work.

### ***The Histoire du parlement de Paris: Attacking Parlementaire Pretensions***

The first and most fundamental of these claims was that resurrected<sup>39</sup> by the Jansenist lawyer, Louis-Adrien Le Paige. According to the *Lettres historiques*, the parlement could be traced back to the Germanic origins of the French monarchy:

Le parlement par une succession qui n'a jamais souffert d'interruption remonte jusqu'à la naissance de la Monarchie française et jusqu'à nos siècles germains. Le Parlement que nous voyons aujourd'hui, est le même Parlement qui subsistoit sous Philippe le Bel, sous Saint Louis, sous

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<sup>38</sup> Venturino, 'Histoire et politique: quelques réflexions autour de l'*Histoire du parlement de Paris*', p.1374.

<sup>39</sup> The assertion had formed the opening paragraphs of the 1732 text condemned by the parlement, *Judicium Francorum*.

Philippe-Auguste, et dont on possède encore les registres; comme celui qui subsistait au tems de ces trois Princes, étoit celui même du Roi Robert et de ses successeurs; de Charlemagne et de toute la deuxième race, de Clovis et de toute la première; celui enfin dont parloit Tacite, il y a 1600 ans, du temps de nos rois germains et dont on ne trouve l'origine que dans celle même de l'Etat.<sup>40</sup>

Voltaire cuts this umbilical cord in chapters 1 and 2 where he shows the separate origins of the representative assemblies - formerly known as *parlements*, but since the reign of Philip IV, known as the *Etats Généraux* – and the judicial courts.<sup>41</sup> The *parlements* of old were the assemblies of *hauts-barons*, convened to decide crucial questions for the kingdom. Under Saint-Louis, smaller assemblies were gathered, often with jurists present to give advice on canon law. Even at this early stage, according to Voltaire, 'ces petits parlements n'étaient point regardés comme les anciens parlements de la nation' (p.159) but were known as the *parloirs du roi*. In Voltaire's view, the change is an immediate transformation rather than an evolution over time, Under Philip le Bel, 'Comme on avait appelé du nom de parlements ces parloirs du roi, ces conseils où il ne s'agissait pas des intérêts de l'Etat, les vrais parlements, c'est-à-dire les assemblées de la nation, ne furent plus connus que sous le nom d'états généraux, nom beaucoup plus convenable puisqu'il exprimait à la fois les représentants de la nation entière et les intérêts publics' (p.160). The simplicity of this explanation should immediately attract our attention. It is impossible to say

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<sup>40</sup> Louis-Adrien Le Paige, *Lettres historiques sur les fonctions essentielles du Parlement, sur le droit des pairs et sur les loix fondamentales du royaume*, 2 vols (Amsterdam, 1753-54), i.274.

<sup>41</sup> Indeed, from the *avant-propos*, Voltaire's intentions are clear: 'L'Angleterre ne ressemble pas plus à ce qu'elle était au temps de Guillaume le Conquérant que la France ne ressemble à la France du temps de Hugues Capet; et les usages, les droits, la constitution sous Hugues Capet n'ont rien des temps de Clovis: ainsi tout change d'un bout de la terre à l'autre' (p.145).



whether Voltaire's interpretation is true or false. We can compare it to others, but these may be equally positioned. However, it is still useful to examine other interpretations, keeping in mind the kind of impression each historian intends to give.

Here it is useful to compare Boulainvilliers's understanding of the origins of the parlement in his *Lettres historiques sur les Parlements*<sup>42</sup> to that of Voltaire, and for three reasons. First, Boulainvilliers was, for a time, a contemporary of Voltaire and therefore we will not be comparing Voltaire's facts to the fruits of much scientific research on the parlements in the nineteenth and twentieth centuries. Second, Boulainvilliers was not writing to support any parliamentary pretension. In fact, the *Lettres historiques sur les Parlements* were written at the request of the Regent to defend his dynastic rights to office and also in support of the dukes and peers against *parlemenature* nobles.<sup>43</sup> Third, this work, while essentially a *plaidoyer* in favour of feudal government, is unaffected by the polemics that surrounded the constitutional conflicts of the later eighteenth century.

Boulainvilliers also notes the presence of law clerks and jurists in the parlement from the time of Saint-Louis and, like Voltaire, states that 'le parlement étant pour lors une cour purement judiciaire, où il n'étoit plus question d'affaires d'Etat, mais seulement de prononcer sur les contestations des particuliers' (ii.31). However, where Voltaire sees the new nomenclature for the assembly of the nation

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<sup>42</sup> Comte de Boulainvilliers, *Histoire de l'ancien gouvernement de la France avec XIV Lettres historiques sur les Parlements ou Etats Généraux*, 3 vols (Amsterdam and The Hague, 1727) (BV505).

<sup>43</sup> Harold A. Ellis, *Boulainvilliers and the French Monarchy: Aristocratic politics in Early Eighteenth-Century France* (Ithaca and London: Cornell University Press, 1988). Ellis explains how Boulainvilliers revered France's feudal past. Antifeudalism was the norm in royalist historiography, which celebrated the expansion of the royal jurisdiction, exemplified by the increasing judicial authority of the parlement of Paris. He states that Boulainvilliers 'sought above all to vilify the parlement of Paris and the great nobles in it' (p.155).



result from this new exclusively judicial function, Boulainvilliers's explanation, while giving all the same facts, is different. He states that the presence, for the first time, of the third estate at the 'assemblée générale' in 1296 - he means 1302 - brought about the change in name. This is a minor point but proves Voltaire's wish to make clear the discontinuity of function of a peripatetic parlement now sedentary in Paris and the resulting discontinuity in name of the body that represented the nation. Whether Boulainvilliers's interpretation is correct or not is another question.<sup>44</sup> What is important here is to show that Voltaire wished to present French history in a certain way, whether this was intentional or simply his understanding of the historical facts. Moreover, this is the first and not the last time when Voltaire employs an historical understanding contrary to his thesis, with the sole purpose of disproving what he sees as *parlementaire* pretensions.

Voltaire accepts without question the perfect lineage of the *Etats généraux* from a misty past on the *champ de mars* to the estates that had last assembled in 1614-1615. The only discontinuity he recognises is the change of name, which occurred as the parlement became sedentary in Paris (p.160). When he notes that in 1302, the Third Estate was called for the first time, he neglects to explain that this was in fact the first assembly of the *Etats généraux*.<sup>45</sup> It is an attractive, common and

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<sup>44</sup> In any case, we can be sure that a change in the function of the parlement did occur at the time stated by both Boulainvilliers and Voltaire. This is confirmed by more comprehensive analyses of the parlement during this period. See Gustave Ducoudray, *Les origines du Parlement de Paris et de la justice aux XIIIe et XIVe siècles* (Paris: Hachette, 1902). Ducoudray recognises that the new judicial function of the parlement did not announce a clean break with the past: 'Le *plaid royal* [*cour du roi/ parloirs du roi*] se tenait en même temps que les assemblées générales des vassaux. Ils s'en distinguaient et s'y confondait tour à tour' (p.26).

<sup>45</sup> That Philippe le Bel was the first French king to convoke the *Etats généraux* is generally accepted. See Antoine Leca, *Institutions publiques françaises (avant 1789)*, 2<sup>nd</sup> edn (Aix-en-Provence: Presse Universitaire d'Aix-Marseille, 1995), p.274.

not entirely false historical approach to see in the Merovingian and Carolingian assemblies, in the meeting of the representatives of the seven provinces of Gaul at Arles in AD 418, the origins of representative government which only became a political reality after the *ancien régime*.<sup>46</sup> However, it is important to remember that these early assemblies were often of a military rather than a legislative nature<sup>47</sup> and that the assembled members were more interested in enforcing their own rights with a view to guarding their personal interests. Even in the years following their creation, the nature of the estates did not remain fixed, as explained by Antoine Leca: ‘Au XIV<sup>e</sup> siècle et encore dans la première moitié du XV<sup>e</sup>, les Etats conservèrent la physionomie d’une cour féodale. Puis, à partir de la réunion de 1484, ils se transformèrent de plus en plus en assemblée représentative, encore qu’ils n’aient jamais eu pour objet principal de représenter la nation, mais de conseiller le roi’ (p.278). Voltaire’s attachment to the idea of a long-established representative body is contrary to his own belief in the haphazard establishment of monarchical institutions and practices. It can only be explained as a tactic to put in sharp relief the representative pretensions of the parlement of Paris.

Voltaire’s attempt to rectify history to his liking is more blatant where he quotes Philippe le Bel’s edict of 1302, which, according to Voltaire, shows that the parlements of the kingdom were judicial, equal and independent of one another. This claim is clearly an attack on the theory of *union des classes* which claimed that each court formed part of one single body with the parlement of Paris at its head. Again,

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<sup>46</sup> Georges Picot’s *Histoire des Etats Généraux*, 4 vols (Paris: Hachette, 1872), exemplifies this approach. He sees that in the Germanic origins of the French monarchy ‘la délibération était le ressort unique de toute action’ (i.4). He continues, ‘Ainsi, les couches successives qui constituèrent le sol de la France renfermaient dans leur sein le germe des institutions libres’ (i.5).

<sup>47</sup> Edgard Boutaric, *La France sous Philippe le Bel* (Paris: H. Plon, 1861) p.20.

Le Paige can be thanked for the resurrection of this theory of parliamentary unity.<sup>48</sup>

This time Voltaire's interpretation is more obviously false, to such an extent that it crosses the borders of legitimate interpretation. It seems that Voltaire has translated his own interpretation of Philippe le Bel's edict of 1302. Voltaire's version is as follows: 'Pour le bien de nos sujets, et l'expédition des procès, nous nous proposons d'ordonner qu'il se tienne deux fois l'an deux parlements à Paris, deux scaires (échiquiers) à Rouen, des journées (grands jours) à Troyes, et un parlement à Toulouse, tel qu'il se tenait anciennement' (p.162). When we consult Etienne Pasquier's *Recherches de la France*,<sup>49</sup> we see that the final clause of Philippe's edict reads differently: 'et l'on establira un Parlement à Tolouze, *si les gens du pays consentent qu'il ne soit appelé de ceux qui y siegeront*' (my emphasis) (ii.45). The difference does not seem that fundamental until we consider that Voltaire's use of the phrase, 'tel qu'il se tenait anciennement', is designed to show that the new parlement in Toulouse was merely a continuation of an independent parlement which had been previously held at Toulouse. It is true that before Philippe le Hardi joined Languedoc to the crown, the counts of Toulouse had held a parlement there. However, the parlement of Paris subsequently gained jurisdiction for cases emanating from Languedoc with the establishment of a special *auditoire de droit écrit* in the capital, which dealt with cases from the Roman law jurisdictions of the south (as opposed to

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<sup>48</sup> Le Paige, *Lettres historiques*: 'Ajoutons, que les autres Parlemens participent évidemment aux mêmes devoirs. Car n'étant que les démembréments, que l'on a fait, depuis trois à quatre siècles, de ce Parlement unique et universel, il s'est fait en eux une émanation nécessaire des fonctions et des obligations de la Cour démembrée: en observant néanmoins que malgré tous ces démembréments, elle est toujours demeurée, cette ancienne et vraye Cour de France' (i.153).

<sup>49</sup> Etienne Pasquier, *Les recherches de la France* (Paris: Louis Billaine, 1665). References to this work in the text show the book and page number in roman and Arabic numerals, respectively.

customary law, which prevailed in the jurisdiction of the parlement of Paris).<sup>50</sup>

However the litigants of Languedoc failed to keep to the provision and were instead seduced by the recourse to appeal which the parlement of Paris provided.<sup>51</sup> The parlement of Toulouse was only made permanent by Charles VII in 1443.<sup>52</sup>

Voltaire wished to hide the true origins of the parlement of Toulouse to prove its independence and contest the notion of *parlementaire* unity. Therefore, his claims that the *échequiers* at Rouen and *grands jours* at Troyes were also independent need to be investigated further. While the *échequier* of Normandy was a jurisdiction of appeal from the seigneurial courts of Normandy, the influence of the parlement of Paris in its constitution and function was fundamental. Ducoudray notes that the early registers of the parlement of Paris contain acts relating to the *échequier*, ‘actes qui montrent le parlement de Paris exerçant pleine autorité sur une Cour que présidaient pourtant ses délégués et qui était comme une émanation de sa justice’ (p.988). The *Grands Jours*<sup>53</sup> at Troyes under Philippe le Bel were also subjected to the control of the Parisian court after his marriage to the heir of Champagne: ‘Seulement, il envoya, comme on avait fait en Normandie des maîtres du Parlement de Paris pour la présider.’<sup>54</sup> The involvement of Parisian magistrates at both Rouen

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<sup>50</sup> Ducoudray confirms Pasquier’s interpretation of the edict: ‘En 1303, Philippe le Bel promet d’établir un Parlement à Toulouse si les habitants s’engageaient à ne point appeler de ses sentences’ (p.996).

<sup>51</sup> Voltaire continues in this vein in chapter 3 (p.167) where he states that the parlement of Toulouse was established for the *pays d’oc* just as that of Paris had been for the *pays d’oui*. He explains the discontinuation of the court as follows: ‘Malgré l’ordonnance du roi, on ne trouva point assez d’argent pour payer les conseillers.’

<sup>52</sup> Ducoudray’s history of the establishment of the parlement in Toulouse is confirmed by the recent work of Jacques Poumarède and Jack Thomas, eds, *Les Parlements de Province: pouvoirs, justice et société du XVe au XVIIIe siècle* (Toulouse: Framespa, 1996) p.29-32.

<sup>53</sup> See Poumarède and Thomas, *Les Parlements de province*: ‘Les Grands Jours sont au Moyen Age des assises judiciaires périodiques formant la cour supérieur de justice d’une grande seigneurie.’ (p.89).

<sup>54</sup> Ducoudray, *Les origines du Parlement de Paris*, p.991.



and Troyes is clear from the *Ordonnance concernant le Parlement, l'Echiquier de Normandie, et les jours de Troyes* of 1302. This ordinance explains in more detail the provisions of the edict referred to by Voltaire. We see that the different courts are all requested to assemble at different times throughout the year. The reason for this is to allow the Parisian magistrates time to attend the various courts. The fourth provision is very clear on this point: 'Tous les ans, le jour de la St.-Michel et landemain de Pâques, tuit li président, et li resident du Parlement, se assembleront à Paris, et d'illec li uns iroent à l'Eschaquier, et li autres entendront à veoir les enquestes.' The fifth provision explains that the *Grands Jours* at Troyes were to be held at the end of each parliamentary session 'en tele maniere que [...] cil qui devront aler au jours de Troyes [...] puissent avoir suffisant de tens.'<sup>55</sup> This ordinance clearly shows that the *échequier* at Rouen and the *Grands Jours* at Troyes had become emanations of a centralised justice system whose presiding officers were Parisian magistrates.<sup>56</sup>

Voltaire's next citation, from Pasquier,<sup>57</sup> while correctly transcribed, appears equally selective. Voltaire cites the formula used at the start of an ordinance produced by Philippe le Long to show that the *grand conseil* – a body which was not descended from the ancient parlements of the Franks – produced laws regulating the parlement. How then, Voltaire wonders, could the parlement of Paris claim to be descended from such assemblies when the *grand conseil* would never have had the authority to regulate them? The formula states that the ordinances were 'faites par notre grand conseil' (p.169). This was obviously designed to have a contemporary resonance as jurisdictional conflicts between the *grand conseil* and the parlement had

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<sup>55</sup> Isambert, *Recueil générale des anciennes lois française*, ii.790, no.370.

<sup>56</sup> This is confirmed most recently by Shennan, *The Parlement of Paris*, p.82-83.



subsisted over a long period and had recently erupted into a series of more serious disputes.<sup>58</sup> On this occasion, Voltaire's fault is one of omission rather than of substitution. He fails to give Pasquier's explanation of the nature and composition of the *grand conseil*, instead relying again on the type of historical understanding in his reader which his work as a whole attempts to discredit, namely, that the institutions of royal government remain unchanged in their nature and functions over time.<sup>59</sup> Voltaire, dispensing with explanations, states baldly that the *grand conseil* was comprised of the peers of the kingdom. However, Pasquier explains that at this time, the personnel of the *grand conseil* were drawn 'tant du Corps du parlement sédentaire que des Princes et grands Seigneurs de la France' (ii.73). In fact, Pasquier shows that the name 'grand conseil' and 'parlement' were used for the same body of royal officers depending on their function as a body at a given time: 'Car la vérité est que le grand Conseil estoit ordinairement tenu à la suite du Roy, mais je veux dire que quand ces grandes convocations se faisoient environ la personne du Roy, le mot de Parlement estoit aboly, et en son lieu estoit lors pris et usurpé celui de grand Conseil' (ii.73). According to Pasquier's *Recherches*, the history of the *grand conseil* was less stable than that of the parlement. Its jurisdiction was no more definite than its membership or functions. Even the term *grand conseil* was used interchangeably with the terms *conseil secret* and *conseil estroit*: 'Ce conseil dans les vieux registres, est tantost appelé conseil secret, tantost conseil estroit, tantost grand conseil.'<sup>60</sup>

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<sup>57</sup> Pasquier, *Les recherches de la France*, ii.50.

<sup>58</sup> See Julian Swann, 'Parlement, Politics, and the Parti Janséniste: The Grand Conseil affair, 1755-56', *French History*, 6 (1992), 435-461.

<sup>59</sup> And it must be remembered that Voltaire had a 1727 edition of Pasquier's *Recherches de la France* in his library (BV2657).

<sup>60</sup> Pasquier, *Recherches de la France*, ii.73. See Léon Auroc, *Le Conseil d'Etat avant et depuis 1789* (Paris: Imprimerie Nationale, 1876). According to Auroc, the question of whether the terms *grand*

Chapter 4 of the *Histoire du parlement* describes the case which brought about the disbanding of the Order of the Knights Templar, but this ostensible historical inquiry is used by Voltaire to deny the continuity of one of the court's most basic functions, the judging of criminal cases. Voltaire states that 'il ne paraît pas que [Philippe le Bel] attribua la connaissance des causes criminelles [au parlement]' (p.170). While Voltaire is correct to state that there was, at this time, no criminal chamber<sup>61</sup> established in the parlement (p.177-78) his attempt to deny their jurisdiction in criminal cases is clumsy. Voltaire states that the parlement's failure to judge the Knights Templar 'est une assez forte preuve que le parlement ne jugeait point alors les crimes' (p.170) and yet in almost the same breath he implicitly recognises the court's jurisdiction: 'il y avait des chevaliers et des jurisconsultes; rien de lui manquait donc pour être en état de juger les templiers' (p.170). While it may be true that the criminal process was slower to develop than the civil – during the Middle Ages criminal process remained an accusatorial system, as dangerous for the accuser as the accused – there is no question over the parlement's competence in criminal matters. The earliest parliamentary records, the *Olim*, show criminal ordinances from before the time of Philippe le Bel. For example, an ordinance of

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*conseil*, *conseil privé* or *conseil étroit* meant the same thing was still being debated by his contemporaries. He adds that 'il est constant que le parlement et la chambre des comptes étaient appelés, dans certaines circonstances, à délibérer, avec des conseillers ordinaires du roi, sur les affaires d'une gravité particulière et sur les réformes législatives' (p.29); Roland Mousnier *et al*, *Le conseil du Roi de Louis XII à la Révolution* (Paris: PUF, 1970). Mousnier's introduction (p.5-13) shows the *conseil du roi* to be an institution in a constant state of flux both before and after its establishment as a sovereign court in 1497-98.

<sup>61</sup> See Shennan, *The Parlement of Paris*. François I created the *Tournelle*, an exclusively criminal chamber comprised of lay counsellors and presidents, in 1515. Up until this time 'for two centuries [...] a delegation of lay counsellors from the Grand' Chambre was responsible for criminal affairs' (p.40).

1276 modified the nature of the inquest in criminal cases, allowing witnesses' names to be withheld in order to protect them from a vindictive accused.<sup>62</sup>

Voltaire relates this question of the parlement's criminal jurisdiction to its right to judge peers of the realm, an essential function of the parlement, according to Le Paige.<sup>63</sup> The parlement's claim that it was the one and only *cour des pairs* was a badge of honour Voltaire was only too willing to tarnish. In chapter 5, Voltaire mentions many *grands* who were not judged by the court including Robert d'Artois, the duc d'Alençon, and Pierre Remy. He implies that in the case against Robert, comte d'Artois (1332), the parlement was simply ignored by Philippe de Valois '[qui] convoqua les pairs lui-même par des lettres scellées de son sceau, "pour venir devant nous, en notre cour, suffisamment garnie de pairs."' He continues, stating that the trial took place in the Louvre and that 'Robert d'Artois n'aurait pu être jugé dans la chambre du parlement, ce n'était pas l'usage' (p.176). This is typical of the obscurantist phrasing Voltaire uses on many occasions in the *Histoire du parlement*. The first element, implying an original initiative by the king, is not a false statement. The king did gather the peers and the princes of the blood in the Louvre to pronounce the banishment of Robert d'Artois and the confiscation of his property. The implication becomes obscurantist when we see that Robert had actually come before the parlement of Paris, sitting as usual in the *Palais de Justice*, on two occasions before this. Artois had been found guilty at the second sitting and fled, forcing the

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<sup>62</sup> *Les Olim: ou registres des Arrêts rendus par la Cour du Roi sous les règnes de Saint Louis, de Philippe le Hardi, de Philippe le Bel, de Louis le Hutin et de Philippe le Long*, 3 vols (Paris: Imprimerie Royale, 1839-48) ii.74.

<sup>63</sup> Le Paige, *Lettres historiques*: 'Elle [the *Cour du roi*] convoque cependant tous ses membres quand il s'agit d'un procès criminel d'un Pair: et si elle n'était pas aujourd'hui si gênée dans ces convocations, sa gloire et sa splendeur, autant que le bien de l'Etat, les lui feraient faire plus souvent' (ii.15).

king to pronounce his banishment at a *cour plénière*.<sup>64</sup> Voltaire's use of a citation masquerading as fact is equally equivocal. The formula 'suffisement garni de pairs' came from the feudal law which prescribed that only a court of barons sufficiently endowed could judge a peer. According to Edgard Boutaric, simply having one peer present was sufficient.<sup>65</sup> Voltaire's understanding of the reason for the parlement's function (he does accept that through usage – he mentions in particular the trial of the duc d'Alençon - the parlement became the *cour des pairs*<sup>66</sup>) as a court which could judge peers is equally evasive. He addresses the question in chapter 9 where he surmises that 'Ils [the peers] pouvaient donc entrer dans la chambre, depuis appelée grand'chambre, parce que tous les juges y étaient originairement des barons' (p.199). He focuses entirely on the rights of the peers to take their place without addressing why they should take it in the parlement. The logic of the *cour des pairs*, in Voltaire's mind, flows from the peers' rights imposed on the court rather than the court's natural function as a place for the peers to exercise these rights. This is yet another example of Voltaire's presentation of a historical model contrary to that espoused by Louis-Adrien Le Paige, another attempt to chip away at the parlement's pretensions.

The examples that I have given above from the early chapters of the *Histoire du parlement* have been chosen specifically because they show Voltaire's use of facts to prove that the parlements' pretensions have no historical basis. The extent to which this use was in fact a deliberate misuse is not possible to evaluate definitively,

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<sup>64</sup> Alfred Coville, *Les Premiers Valois et le débat de la Guerre de Cent Ans (1328-1350)* (Paris: J. Tallandier, 1981) p.18-19.

<sup>65</sup> Boutaric, *La France sous Philippe le Bel*, p.207. He gives the example of a case involving the comte de Flandre (1290) at which only the duc de Bourgogne was present.



as we can only hypothesise on the manner in which Voltaire wrote his history. Did he cite from memory or from texts open before him? Did he deliberately bend the facts to suit his thesis or was his understanding of French history so prejudicial towards the parlement that he was subconsciously processing historical facts in accordance with his historical vision? We cannot answer these questions about Voltaire's mentality during the writing process. All we can do is analyse the results which may shed light on that process. Consequently, I shall now focus on the specific ways in which Voltaire uses (and abuses) his facts and how his manipulation of them is invariably anti-*parlementaire*.

### ***The Anti-Parlementaire Rhetoric of Voltaire's Histoire du parlement***

Turning now to the selection and presentation of facts throughout the rest of his *Histoire*, Voltaire's notebooks provide a good starting point. Some of Voltaire's notes on the history of the parlements were reproduced by Besterman in his publication of the *philosophe's* notebooks. The first line of an extract that gives an outline for the early chapters of the *Histoire du parlement* reads 'Jurisconsultes peu philosophes. Citent un exemple ou deux, et en suppriment vingt contraires'.<sup>67</sup> This should give a clear indication of Voltaire's approach in his selection and use of facts. In fact, six separate tactics employed by Voltaire to deflate the parlement's *amour propre* or misrepresent the court using historical 'facts' can be recognised in the *Histoire du parlement*. The first of these is the changing of emphasis in the presentation of quotations or facts. The second, more serious, is Voltaire's tendency

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<sup>66</sup> He does stress however that the parlement became known as the *cour des pairs* 'non par aucune concession particulière des rois, mais par la voix publique et par l'usage' (p.192).



to misquote his sources. Thirdly, there is our historian's predilection for historical interpretations that are anti-*parlementaire*. Fourth, his glossing over inconvenient facts.<sup>68</sup> Fifth, his negative presentation of the parlement in public ceremonies. And finally, his selective praise of the courts.

Unfortunately for the historian of the histories of the modern period, the now standard practice of providing proper references was far from systematic in the eighteenth century. We can be thankful at least that Voltaire, in his *Histoire du parlement*, does include a certain number of notes on his sources, whether as references to specific facts in a particular history or of a more general nature.<sup>69</sup> This can make the job of interrogating his sources somewhat easier, however, at times we can only wonder about the origins of his information. Renwick has noted how Voltaire's references to certain historians, often in negative terms, can be seen as an attempt by the author to prove his own reliability as an historian, compared to others.<sup>70</sup> That Voltaire would employ such a tactic is in itself telling.

The historian to whom Voltaire makes most direct references is Jacques-Auguste de Thou.<sup>71</sup> However, the change of emphasis placed on certain facts, and the misquotation of passages from his *Histoire universelle* is a feature of Voltaire's use of this work. It is interesting to note the subtle changes that this tactic effects on the

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<sup>67</sup> *Notebooks II*, ed. Theodore Besterman, *OCV*, vol.82, p.643.

<sup>68</sup> I shall deal with the first two of these tactics together, as I shall with the second two, as in each case the two elements are related.

<sup>69</sup> For example, he refers to Hénault's denial of a certain fact in his *Abrégé chronologique* (p.186). However, he guides the reader who may be looking for other examples 'de la variété des usages et des formes' to the works of Pierre Dupuy, president de Thou, the comte de Boulainvilliers, 'et tous les historiens' (p.231). Of course, this final indication is of no concrete help to a researcher in the twenty-first century, or any century for that matter.

<sup>70</sup> *Histoire du parlement de Paris*, p.74.

<sup>71</sup> *Histoire du parlement de Paris*, p.231, 243, 257, 265, 275, 285, 293, 317, 331, 343, 349, 366. De Thou's *Historiarum sui temporis* was translated as the *Histoire universelle*, 10 vols (The Hague, 1759) (BV3297).

historical narrative. For example, in his discussion of the parlement's registration of edicts of pacification under Catherine de Médicis, Voltaire's slight change of emphasis shows the parlement in a worse light. De Thou's account is as follows: 'La compagnie, en l'enregistrant, ajouta qu'elle ne le faisoit que pour obéir à la volonté absolue du Roi, & que l'édit ne subsisteroit que jusqu'à ce que des circonstances plus favorables missent Sa Majesté à portée d'en ordonner autrement' (iii.81). Voltaire interprets this, dispensing with the parlement's polite deference and including an example of the court's intolerance: 'Enfin après trois lettres de jussion, il obéit le 6 mars, en ajoutant la clause "qu'il *cédait* à la volonté absolue du roi; *qu'il n'approuvait point la religion nouvelle*, et que l'édit ne subsisterait que jusqu'à nouvel ordre"' (my emphasis) (p.266). Voltaire adds to this that the clause 'inspira la défiance aux réformés, et rendit les deux édits de pacification inutiles'. Soon after, Voltaire again misquotes de Thou, who cites the deputation sent to protest against the registration of the edict declaring Charles IX's majority at the parlement of Normandy. According to de Thou, the deputation petitioned the king, stating 'que le Parlement de Paris étoit seul dépositaire de l'autorité des Etats, & les représentoit; que par cette raison, *il étoit d'usage* de lui adresser les édits, avant de les porter aux autres Parlemens" (my emphasis) (iii.285). Voltaire transforms this into a much more militant statement when he 'quotes' de Thou: 'qu'aucun édit ne devait passer en aucun parlement du royaume sans avoir été auparavant vérifié à celui de Paris' (p.275). Voltaire correctly cites the young king's response (although changing it to direct speech) but notably fails to include his opening words, which de Thou also provided: 'Bien jeune encore, mais instruit par sa mère, il répondit qu'à l'exemple de

ses prédécesseurs, il écouterait toujours volontiers les remontrances de ses Parlemens' (iii.285).

Perhaps one of the best examples of what Renwick has recognised as Voltaire's tactic of distancing himself from supposedly partisan historiography (p.74) can be found in his unequivocal refutation of the claim that the first Estates of Blois ordered that 'les cours des parlements sont des états généraux au petit pied'.<sup>72</sup> In disproving this claim, Voltaire goes so far as to cite the name and page number of the work in which the offending statement was purportedly found, the *Mémoires de Nevers*,<sup>73</sup> the only occasion on which he provides such an exact reference. After giving the correct citation, Voltaire extracts the lesson to be learned from this example of failed historical scholarship, namely, 'Il faut, en critiquant une histoire, citer juste et se mettre soi-même à l'abri de la critique' (p.301). Voltaire's refutation, correct citation, exact reference and 'moral of the story' tell the reader that this historian can be trusted. However, such great lengths taken, designed to convince the reader, should instead raise our suspicions.<sup>74</sup> When we look at the actual text of the *Mémoires de Nevers* we see that Voltaire has found it hard to follow his own advice. His omission of the clause implying an obligation to obey the laws, which the parlement verify and to which the king too must submit is less serious than his ignoring of the context: '*Que si bien la puissance de Roy est tres grande, comme un tres-puissant Monarque; si est-ce que les Rois de France par leur debonnaireté,*

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<sup>72</sup> The claim was made in *L'Examen de la nouvelle Histoire de Henri IV, de M.de Bury, par M. le Marquis de B\*\*\*, lu dans une séance de l'Académie, auquel on a joint une pièce analogue* (Geneva, 1768)

<sup>73</sup> *Le Mémoires de Monsieur le duc de Nevers, Prince de Mantouë*, 2 vols (Paris: Gomberville, 1666), i.449.

*n'ont jamais pensé leur dite puissance estre limitée & diminuée, se soumettant de ne pouvoir faire ny ordonner pour le reglement du Royaume, qu'autant qu'il seroit selon la raison & les lois d'iceluy: d'où vient qu'il faut que tous Edits soient verifiez & comme controollez és Cours de Parlemens, devant qu'ils obligent à y obeir.*

Lesquelles, combien qu'elles ne soient qu'une forme des trois Estats, raccourcie au petit pied' (my emphasis) (i.449). The reference to this quotation, as found in *L'Examen de la nouvelle histoire de Henri IV*, was intended to show that the parlements represent the nation in the absence of the *Etats généraux*. The full quotation shows that this was not the intention of the Duc de Nevers. However, rather than simply relying on the correct quotation, Voltaire simplifies it, omitting the reason for the necessity of registration in the parlement of Paris, the court's most important function.

Voltaire's exaggeration of parliamentary disobedience which we saw in his use of de Thou is complemented by his exaggeration of royal eloquence. In his description of the registration of the Edict of Nantes, Voltaire expresses disappointment that de Thou did not reproduce the actual speech of Henri IV to a deputation from the parlement. He says that de Thou, writing in Latin, 'ôtait aux paroles du roi cette naïveté familière qui en fait le charme, et qu'on ne peut pas traduire; mais imitait encore les anciens auteurs latin, qui mettaient leurs propres idées dans la bouche de leur personnage, se piquant plutôt d'être orateurs élégants que narrateurs fidèles' (p.366). Comments such as this seem brazen when we consider that Voltaire goes on to piece together a composite speech - albeit

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<sup>74</sup> Voltaire's need to refute the claim is obvious when we consider that the work in which it appeared was originally attributed to him (M.xv.532, note by Beuchot). There is also the fact that this was

transcribed with fidelity – from Père Daniel.<sup>75</sup> As noted by Renwick, Voltaire, in reproducing as he claims ‘la partie la plus essentielle’ (p.366) chose paragraphs ‘dont [il] avait mesuré tout l’intérêt et dont il fait quelque chose de plus percutant’ (p.366n). It seems almost incredible that Voltaire could in all good faith follow his criticism of de Thou with his own edited version of Henri’s speech. If he actually believed in his own objectivity it is perhaps more revealing of his attitude towards the parlement as it would mean that he was labouring under such prejudice as to be blind to his own bias. However, the choice between presenting his history either as a polemic or as the result of a fundamental prejudice does not have to be made here, as the result in the form of an historical text is the same.

Voltaire’s attempts to make Henri IV as heroic as possible are also achieved by the omission of certain facts that do not sit well with the discourse of royal approbation that surrounds every mention of ‘le plus grand roi de l’Europe’ (p.360). Chapter 38 of the *Histoire* is a perfect example with the title epitomising this Voltairian tactic: ‘Henri IV ne peut obtenir de l’argent pour reprendre Amiens, s’en passe, et le reprend.’ We are left wondering how Henri *does without* only to find that he does not. The chapter itself reveals – but it is up to the reader to deduce – that the parlement fails to produce the necessary funding because of its opposition to Sully’s financial measures, and that Henri does not in fact do without these funds but is instead forced to borrow from his mistress. However, Voltaire’s presentation of the *lit de justice* at which Henri supposedly enforced the registration of Sully’s edicts shows the king as a father figure ‘réprimandant doucement les jeunes conseillers des

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exactly the type of historical understanding that Voltaire’s *Histoire* intended to disprove.



enquêtes' (p.360). Voltaire ignores the fact that Sully had created venal judicial offices<sup>76</sup> and that the edicts remained unregistered<sup>77</sup> forcing Henri to rely on his mistress. The final image of the chapter, describing the greatest king in Europe with threadbare shirts adds to the memory of the humble hero that Voltaire likes to promote in this part of the *Histoire*, at the expense of the parlement.

Voltaire's historical interpretations against the parlement and in favour of royal authority are evident in his chapter on parliamentary opposition to the establishment of the *Académie française*. Voltaire is merciless towards Michel Le Vassor<sup>78</sup> who described the establishment of the *Académie* as proof of Richelieu's tyranny. Voltaire attributes his own criticisms of the parlement to Richelieu's contemporaries: Some feared that the *Académie* might inspire new thinking, others that the style of the bar would lose its prestige as result, others still, saw vindictiveness in the parlement's opposition. While Voltaire's quotation from Le Vassor is not far from the original, it is shortened and fails to include the correct accusation that Richelieu originally required 'que chacun des Académiciens promettroit de révéler la vertu & la mémoire de Monseigneur leur protecteur [Richelieu himself]'.<sup>79</sup> Voltaire also fails to recognise the real fears of many who opposed the establishment of the *Académie*, as described by one of its earliest historians: 'Le peuple aussi & les personnes, ou moins éclairées, ou plus suspect, ne

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<sup>75</sup> Gabriel Daniel, *Histoire de France*, 9 vols, 2<sup>nd</sup> edn (Paris, 1729), vi.695-6; 697; 697-8; 699; 699. Cited in Renwick, *Histoire du parlement de Paris*, p.366.

<sup>76</sup> *Mémoires du duc de Sully*, 6 vols (Paris: Etienne Ledoux, 1822), ii.316-7.

<sup>77</sup> Sarah Hanley, *The lit de Justice of the Kings of France* (New Jersey: Princeton, 1983) p.224-25. None of the nine edicts read that day are to be found in the parlement's registers (Isambert, *Recueil générale des anciennes lois française*, xv.164, no.1).

<sup>78</sup> He describes him as a 'compilateur grossier' whose style is 'barbare' and offensive to 'la vérité, la langue et le bon sens' (p.422-23).

savoient si sous ces fleurs il n'y avoit caché, & apprehendoient pour le moins que cet établissement ne fust un nouvel appui de sa [Richelieu's] domination, que ce ne fussent des gens à ses gages, payez pour soutenir tout ce qu'il feroit, & pour observer les actions et les sentiments des autres.'<sup>80</sup> Voltaire does recognise the parlement's fear of an infringement by the newly founded *Académie* on the court's policing of the book trade but makes little of it.<sup>81</sup>

One historical point in which Voltaire employs all his tactics to repudiate any *parlementaire* pretensions to political power or influence can be found in chapter 60, which describes the failure of Law's monetary system. After the failure of this system, the parlement went so far as to order the arrest of John Law who was forced to flee. At the *lit de justice* which annuled the parlement's *arrêt* of 12 August condemning Law's system, the Marquis D'Argenson spoke first, Voltaire quoting his harangue correctly except for the minor adjustment - understandable given Voltaire's intentions - ensuring that 'jamais' would the parlement involve itself in affairs of state or finance (p.476). In fact, D'Argenson was less equivocal, reserving the king's right 'de luy en demander son avis par un ordre exprés'.<sup>82</sup> Where Voltaire really misunderstands or willingly misinterprets the *lit de justice* is in the following: 'Aussitôt on lut un nouvel édit par lequel on rétablit les pairs dans la préséance sur les présidents à mortier, et sur le droit d'opiner avant eux: droit que les pairs

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<sup>79</sup> Michel Le Vassor, *Histoire du règne de Louis XIII*, 10 vols (Amsterdam, 1700-1711), viii.519. This was according to the fifth article of the statute establishing the *Académie*. See Paul Pellison-Fontanier, *Relation contenant l'histoire de l'Académie française* (Paris: T.Jolly, 1672), p.49.

<sup>80</sup> Pellison-Fontanier, *Relation contenant l'histoire de l'Académie française*, p.59.

<sup>81</sup> Voltaire cannot imagine such a thing given that the *Académie* had not even been given a meeting place by Richelieu. However, Renwick recognises the valid sentiments of those *parlementaires* who, 'tout comme certains fondateurs de l'académie embryonique, craign[aient] la création d'un organe d'absolutisme culturel et socio-politique' (*Histoire du parlement de Paris*, p.423n).

n'avaient pas voulu réclamer au lit de justice qui donna la régence, mais qu'ils revendiquaient dans un temps plus favorable' (p.477). If we look at the transcript of the *lit de justice* we see that the new edict ordered no such thing. A glance by a prejudiced eye at the first phrase – 'Le Roy ayant jugé à propos de rendre aux Duc & Pairs le Rang & Prerogatives dont ils avoient cessé de jouir [...]' – may have suggested something related to Voltaire's interpretation. However, one would have to be very un-interested, and deliberately so, not to read on and discover that the rights and prerogatives referred to are those of Louis XIV's legitimised bastards. The Edict of July 1714 and the Declaration of May 1715 granting the royal bastards the title of *Princes du Sang* and consequently the right to succeed to the French throne 'a donné lieu de Nous en demander la Revocation, que nous leur avons accordée pour maintenir dans nos descendants & dans ceux des Princes du Sang Royal les Droits Eminens que la seule naissance legitime peut donner'.<sup>83</sup>

Even if Voltaire had been correct in his interpretation of this edict, his second point is also flawed. Voltaire implies that the peers had held back at the *lit de justice* granting the regency (2 September 1715) waiting for a more favourable time to assert their supremacy over the *parlementaires*. One wonders what time could have been more favourable for the peers than a *lit de justice*, where their presence was imperative in order for what was otherwise a judicial court to become the *cour des pairs*?<sup>84</sup> In fact, on that day the peers 'lost their political voice'<sup>85</sup> as they chose not to opine. This was yet another scene in the drama that was the *affaire du bonnet*, a long-

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<sup>82</sup> *Procès-verbal de ce qui s'est passé au Lit de Justice, tenu par le roy au château des Tuileries, le vendredy 26e jour d'aoust 1718* (Paris, 1718), p.21.

<sup>83</sup> *Procès-verbal de ce qui s'est passé au Lit de Justice*, p.12.

<sup>84</sup> This is how the dukes and peers would have viewed the concept of the *cour des pairs*.

<sup>85</sup> Ellis, *Boulainvilliers and the French Monarchy*, p.123.

running spat over ceremonial courtesy which Harold A. Ellis recognises as a public and symbolic conflict over the dukes' and peers' place in the French constitution.<sup>86</sup> In 1643, the first president of the parlement had failed to remove his *bonnet* when addressing the dukes and peers. The peers did not make an issue of this practice until 1681. Also at issue was the order of opining at *lits de justice* and *Séances Royales*. On this occasion, as the *premier président* had neglected to remove his hat when addressing the dukes and peers, so did they when addressing him. When their turn came after the *premiers présidents* to give their opinions they refused to do so claiming that they already had. Their silence was meant to imply that they had in fact opined before the presidents, as the presidents had already addressed the assembly, still wearing their bonnets. Earlier that day, the parlement had prepared an *arrêté* stipulating that a failure by the peers to observe procedure would result in their votes not being counted, which happened on this occasion. The whole affair prompted a mini pamphlet war with both sides publishing *mémoires* in favour of their respective positions. Far from suggesting that Voltaire's comments are a distant echo of these conflicts, it is still significant that he should feel the issue worthy of comment, and revealing the spin he puts on the affair. Why would Voltaire choose to attach relevance to such conflicts that on other occasions he would simply dismiss as the trivial products of vanity?<sup>87</sup> Perhaps, he realised, like Saint-Simon, that these matters were 'choses dont l'éclat ébloui[t] si le solide ne s'y rencontre pas.'<sup>88</sup> His reference

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<sup>86</sup> Ellis, *Boulaingvilliers and the French Monarchy*, p.121. The Regent failed to take real action on the issue, his final word postponing any decision until such time as Louis XV should chose to address it after his majority.

<sup>87</sup> *Des cérémonies*, eds Ahmad Gunny and David Williams, in *OCV*, vol.32A (Oxford: VF, 2006): 'A mesure que les pays sont barbares, ou que les cours sont faibles, le cérémonial est plus en vogue. La vraie puissance et la vraie politesse dédaignent la vanité' (p.300).

<sup>88</sup> Cited in Ellis, *Boulaingvilliers and the French Monarchy*, p.125.



to the affair is all the more interesting when we consider that Voltaire has consistently referred to the order of precedence on public occasions throughout the *Histoire*.<sup>89</sup>

Sarah Hanley's theory that the *lit de justice* 'stimulated constitutional discourse and provided a public forum in which constitutional ideologies were articulated'<sup>90</sup> is an interesting one and relevant to Voltaire's *Histoire* when we consider that the work is now viewed as a response to the question of the constitutional and historical validity of *parlementaire* pretensions. Hanley has argued that the ritual observed at *lit de justice* ceremonies 'defined and disseminated precepts of French Public Law (or working axioms of government) in a national forum convoked for this purpose' (p.9). This was achieved by the ceremonial configuration (the seating arrangements and clothing) and the procedural format (the order of consultation) that provided 'an alternative language moulded from space, gesture, and symbol rather than word, which outlined the French constitution in the *Lit de justice* assembly' (p.10). In the *procès-verbal*, describing the *lit de justice* of 1718, which Voltaire misinterprets in chapter 60, we see that the first pages are given over to a detailed description of the seating arrangements. It also gives the order in which the various officers entered the chamber and the order of opining.<sup>91</sup> Why transcribe such details into an official document, if not so that they would be relied on as procedural precedents in the future? However, this quasi-judicial nature of

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<sup>89</sup> p.189, 274-75, 295-96, 427-28, 432, 437; 457-59, 468-69.

<sup>90</sup> Hanley, *The Lit de Justice of the Kings of France*, p.7.

<sup>91</sup> *Procès-verbal de ce qui s'est passé au Lit de Justice*, footnote 56. The *Garde des Sceaux* spoke first, then ordering the *gens du roi* to speak. Opinions were then taken from the *Princes du Sang*, the dukes and lay peers, the *grand Chambellan*, the ecclesiastical peers. Following these, the *Maréchaux de France* were consulted, then the presidents of the parlement, the *conseillers d'Etat* and the *maîtres de requêtes*. Last to opine were the counsellors of the parlement.



public ceremony could not simply have been confined to the *lit de justice*, which only appeared in 1527. Hanley does mention other public forums, such as the *Séance Royale* and the *Etats Généraux*, but their presence was as intermittent as that of the *lit de justice* (p.343). In the absence of a regular public forum, it could be suggested that all official ceremonies and public occasions that involved some element of ceremony were possessed of this quasi-judicial attribute which had the value of a legal precedent.

The details provided by Voltaire of public ceremonies on many occasions in his *Histoire* are interesting because one element emerges consistently: the parlement or its magistrates emerge deflated. The seemingly innocuous transcription of the details of public ceremony take on a new potency when considered as the public manifestation of an unwritten constitution, defining and prescribing the nature of public functions and the repartition of power in the public sphere. There is little doubt that Voltaire was aware of their importance.<sup>92</sup> Voltaire describes with varying amounts of detail, the funerals of Charles IX and Henri IV. For the former, he simply repeats Hénault's comments that the *parlementaires*, at table, sent a *huissier* to order the *grand aumônier*, Amyot, to come and say grace for them. Voltaire doubts this fact as 'on croit bien que le grand aumônier refusa de venir à cette cérémonie' (p.295-96). Renwick has shown that Voltaire simplified the facts, first of all ignoring Hénault's revealing addition, that Amyot refused the *parlementaires'* order and hid

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<sup>92</sup> See *Des cérémonies*: 'La marche des carrosses, et ce qu'on appelle le *haut du pavé*, ont été encore des témoignages de grandeur, des sources de prétentions, de disputes et de combats, pendant un siècle entier. On a regardé comme une signalée victoire de faire passer un carrosse devant un autre carrosse. Il semblait, à voir les ambassadeurs se promener dans les rues, qu'ils disputassent le prix dans des cirques; et quand un ministre d'Espagne avait pu faire reculer un cocher portugais, il envoyait un courrier à Madrid informer le roi son maître de ce grand avantage' (p.300).

to avoid it.<sup>93</sup> Consequently, Voltaire is silent on the reason for Amyot's refusal, namely, a conflict over the order of precedence involving *parlementaires*, ecclesiastics and nobles, in which the *parlementaires* had prevailed, succeeding in being the first group to follow the king's remains in the funeral procession. Voltaire's sparse account of this public ceremony, where the *parlementaires* took precedence, is in stark contrast to the detailed account of Henri IV's funeral (p.386-87) in which Voltaire gives a description of the seating arrangements in order to show how the *parlementaires* were separated from the 'princes et les grands officiers de la couronne'. Such detail was provided to prove a very specific point: 'Il semble que, si le parlement avait été regardé dans ces cérémonies comme cour des pairs, il aurait du manger avec les princes du sang, qui sont pairs' (p.387-88). The whole affair leads Voltaire to the conclusion that 'ces détails concernant les rangs sont le plus mince objet de l'histoire; et tous les détails des querelles excitées pour la préséance sont les archives de la petitesse plutôt que celles de la grandeur' (p.388). Voltaire is, nonetheless, content to deal with these *minces objets de l'histoire* when they deflate the parlement's importance.<sup>94</sup>

Moving to my final point, regarding Voltaire's anti-*parlementaire* rhetoric, I would suggest that Voltaire's praise for the courts in the *Histoire du parlement*, which has been seen by others as providing balance to the work,<sup>95</sup> actually has the opposite effect, damning and deflating the court as much as his obvious attacks on their pretensions. The parlement's consistent opposition to the encroachment of

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<sup>93</sup> *Histoire du parlement de Paris*, p.296.

<sup>94</sup> On two occasions Voltaire states that these quarrels are the product of vanity (p.432, 457). On three further occasions, Voltaire uses public ceremony to give precedence to the peers' notion of the *cour des pairs*, i.e. that the parlement's greatest honour was its function as *cour des pairs*, but only when the peers were present (p.437, 457, 458-59).

Rome on the temporal authority of French kings is understandable given Voltaire's anti-clericalism and his belief that the Catholic Church should have no influence in the temporal authority of kings. At the tumultuous start of Charles VIII's reign, the parlement are praised for 'ne s'occup[ant] que de soin de rendre la justice, et [...] donn[ant] au peuple l'exemple de l'obéissance et de la fidélité' (p.211). This is exactly how Voltaire envisages the role of the parlement: alien to current politics, obedient and loyal to the crown. He could not fail to praise the first president, La Vacquerie, for his statement of parlement policy, that 'les finances, la guerre, le gouvernement du roi ne sont point de son ressort' (p.212), fully aware of the effect these words would have on an eighteenth century reader who witnessed, on a daily basis, the court's incursions into these areas, which had been for so long, in monarchical theory at least, the prerogative of kings. Let us not be fooled by this calculated approbation.

René Pomeau notes Voltaire's recognition of the parlement's service to the nation 'lorsqu'il refuse de recevoir en France le concile de Trente [...]; lorsqu'il condamne une possédée de Romorantin [...]; éconduit une manifestation de dévotes [...]; enregistre l'Edit de Nantes [...]; tente d'empêcher le rappel des jésuites [...]',<sup>96</sup> Voltaire is undoubtedly consistent in his support for the parlement against the pretensions of the papacy (p.206, 218, 251, 260, 331, 344). Also, any act that countered the intolerance and fanaticism inspired by *l'infame* was worthy of praise. However, it is interesting that his praise for the parlement includes, without exception, an implicit or explicit comment on the court's proper function, as he sees

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<sup>95</sup> Gay, *Voltaire's Politics*, p.318; Pomeau, «Ecrasez l'Infâme», p.400.

<sup>96</sup> Pomeau, «Ecrasez l'Infâme», p.400.

it. In chapter 5, Voltaire praises the magistrates who, rather than abandon their posts even though they had not been renewed (a necessary formality for the holders of a non-permanent commission), continued their service. However, this praise attracts attention to the nature of the magistrates' posts as they were historically: non-venal, non-hereditary and non-permanent, remedies all for judicial tyranny and corruption. Again, in chapter 12 the parlement gives a good example to the public when after the death of Louis XI it 'ne fit aucune démarche pour augmenter son pouvoir.' Instead, it 'ne s'occupa que du soin de rendre la justice, et de donner au peuple l'exemple de l'obéissance et de fidélité' (p.211). In the same chapter he quotes with approval the first president of the parlement who states that 'les finances, la guerre, le gouvernement du roi, ne sont point de son [the parlement's] ressort' (p.212). Voltaire's praise is for an obedient parlement that dispenses the king's justice without meddling in affairs of state. And here is Voltaire's conception of the parlement's function, one shared by king and ministers.

To a certain extent, my interpretation of Voltaire's history has shown a great consistency in Voltaire's approach: an image of the court that the court itself would reject is presented.<sup>97</sup> However, in the last section of the work which deals with the contemporary history of the parlement, a more complicated picture emerges, one which the king and his ministers would certainly not share, nor wish to see shared with the reading public.

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<sup>97</sup> The magistrate Séguier, on a visit to Ferney in late 1770, would confirm the parlement's intention to pursue the author of the *Histoire du parlement*. See D16649, D17193, D17566.

### **Contemporary History in the *Histoire du parlement de Paris***

The chapters of the *Histoire du parlement* dealing with more recent *parlementaire* history, namely, the eighteenth-century conflicts over the bull *Unigenitus* and the increasing opposition of the parlements to royal authority, show Voltaire's view of the parlements to be more complex than those dealing with the reigns of the Sun King and his predecessors, which I have just examined. As an historical refutation of *parlementaire* pretensions and an attempt to degrade the sovereign courts to the mechanical role of a mere unthinking extension of royal power, and its members to pompous and vain *bourgeois*, the *Histoire* was hugely successful. The tableau presented by these contemporary chapters (60 - 68) when read in continuity with those preceding them is at first confusing in its increased complexity. One of the striking features which can be noted upon a more detailed reading is that the narrative seems more balanced. Now, by 'balanced' we should certainly not read 'objective'. I have shown above how analyses praising the *Histoire du parlement* as objective are simply inaccurate. An objective history (inasmuch as that is possible) does not contain disfigured quotes, altered facts and a clear historical bias (whether deliberate or not). In the chapters dealing with the period from the Regency until the expulsion of the Jesuits,<sup>98</sup> Voltaire continues to ridicule the affairs in which the parlement involves itself. He criticises the rather rash reactions of the

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<sup>98</sup> Chapter 69, which follows the chapter on the Jesuits and deals with the period from Maupeou's reforms of 1771 until the accession of Louis XVI, will not be analysed here as to do so would be misleading as to Voltaire's attitude in 1769. The chapter was only added in 1775 to the *édition encadrée* of Voltaire's *Œuvres complètes*. See, *Histoire du parlement de Paris*, ed. Renwick, p.555.



court to these affairs, he persists in deflating the magistrates' bloated self-image and generally undervalues the court's functions.<sup>99</sup> As in the preceding chapters, Voltaire praises the actions taken by the parlement of Paris in certain circumstances, but whereas in these earlier chapters the praise seemed calculated to promote an ideal image of a loyal and obedient court of law, a change in the nature of this praise can be detected in the later chapters. In fact, at times it seems as if Voltaire sympathises or even agrees with the court's position. However, this sympathy is often tempered by subsequent criticism of the way in which the court behaves in order to achieve the realisation of the policy which dictated its position at the outset. At times, one could say that Voltaire fails to follow his support of the parliamentary position to its logical conclusion. On certain occasions, there is even a veiled criticism of the royal position or the way in which this is expressed. These rather subtle aspects of the later chapters change what would have been a uniform interpretation of the *Histoire du parlement de Paris*, that is, one which shows Voltaire adopting a politico-historical viewpoint which supports absolute royal power against an increasingly politicised supreme court, whose greater confidence in its public role rested on recently rediscovered and contested historical foundations, to a much more complex interpretation of Voltaire's attitude towards the sovereign courts, and royal power for that matter.

First, however, let us examine Voltaire's criticism of the parlements during this period in order to locate the particular actions of the sovereign courts which may have contributed to his attitude towards them in 1769.<sup>100</sup> As we have seen in the

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<sup>99</sup> For Voltaire, they should dispense royal justice and nothing else, unless that something else constitutes a control on a greater evil than the parlement itself, such as the encroachments of the Papacy on the temporal authority of the king.

<sup>100</sup> It is important to remember that there are two elements at work in the Voltaire's writing of the parlement's history. First, it could be said that Voltaire's presentation of the court throughout its

earlier chapters of the work, Voltaire invariably ridicules the controversies that excite the courts as well as their frenzied and misguided interventions. Law's monetary system, which introduced paper money to the kingdom during the Regency, is generally viewed negatively by Voltaire<sup>101</sup> in chapters 60 and 61 because of the confusion which accompanied it, even if 'une partie de son système aurait été très utile, si elle avait été modérée' (p.480). In chapter 60, we are told that neither the Regent nor the Keeper of the Seals was well versed in the art of the administration of finances. The parlement, which remonstrated 'n'y entendait pas davantage. Il fit des représentations aussi légitimes que mal conçues' (p.474). Voltaire can only ridicule this senseless dialogue: 'Ce corps [the parlement] ne dit point ce qu'il devait dire, et le régent ne répondit point ce qu'il devait répondre' (p.475). The conflicts surrounding the policy of forcing the papal bull *Unigenitus* on France's Jansenists added an element more detestable to Voltaire, perhaps, than mere parliamentary incompetence. Religious fanaticism, in the form of the Jansenist *convulsionnaires* at the graveyard of Saint-Médard, the refusal of sacraments and the alignment of parlements and the French episcopate at opposite sides of a schismatic divide, attracted the antipathy and consequently the scorn of Voltaire: 'Ces petites dissensions pour des choses que le reste de l'Europe méprisait augmentaient tous les

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history is the result of an attitude developed as a reaction to the affairs of parlement as he witnessed them in his lifetime. Simply put, a negative reaction to contemporary events would impose this same attitude on all of the court's past history. Second, there is the possibility that after the researching and writing of the history of the parlement, this insight was brought to bear on Voltaire's attitude towards the courts. Of course, both elements of this dialectic are complementary and are reconciled continuously throughout the passage of time and throughout the actual process of writing itself.

<sup>101</sup> This is a good example of the process that I mentioned in the previous note. At the time of Law's system, Voltaire, while aware of the problems, was poorly informed about it. He tells his correspondent Lefèvre de la Faluère (D84. [c.July 1719]) that the system 'est un chaos que je ne puis débrouiller et auquel je m'imagine que vous n'entendez rien. Pour moi personnellement je ne me livre à d'autres chimères qu'à celle de la poésie.'

jours entre le parlement et les évêques.’<sup>102</sup> There is a deliberate weariness in Voltaire’s description of the year 1733 which ‘se passa en mandements d’évêques, en arrêtés du parlement, et en convulsions’ (p.501). Only the real business of war could put a temporary end to these ‘sottises’.<sup>103</sup> The conflicts surrounding the refusal of sacraments, which began in earnest with the naming of Christophe de Beaumont as archbishop of Paris (1746), are described in part in chapter 65 (of which the title reads: ‘Du parlement, des convulsions, des folies de Paris jusqu’à 1752’). The futile nature of these disputes is captured in Voltaire’s summary of the troubles: ‘Il n’y avait guère de semaines où il n’y eût un arrêt du parlement pour communier dans l’étendue de son ressort, et un arrêt du conseil pour ne communier pas.’<sup>104</sup>

While ridicule was not confined to the parlement alone, the court’s behaviour of which Voltaire did not approve was targeted continuously, a good example being its attempts to convoke the peers of the realm. We have seen how in the early chapters of the *Histoire du parlement*, Voltaire attempted – clumsily, it must be admitted – to deny the parlement’s status as *cour des pairs*, finally conceding that it did acquire the name ‘par la voix publique et par l’usage’ (p.192). The parlement’s

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<sup>102</sup> *Histoire du parlement*, p.498. Voltaire was fully aware of the fanaticism of certain members of the parlement. Their opposition to *Unigenitus* was not simply because of their staunch Gallicanism – which Voltaire regularly commends – but also because of links between the court and the Jansenist *convulsionnaires*: ‘Mais les convulsionnaires allaient danser secrètement dans les maisons [after the closure of the graveyard at Saint-Médard], et même chez plusieurs membres du parlement’ (p.502).

<sup>103</sup> The War of the Polish Succession began in 1733. France, eager to assure an alliance with Poland, supported the candidature of Stanislas Leszczinski to the elective Polish crown. His daughter, Marie Leszczinska had been married to Louis XV since 1725. Voltaire consistently places war above all concerns of the interior government of France: ‘On ne pouvait soutenir la guerre avec des remontrances. Cet objet était plus important que la bulle des convulsions, et des arrêts contre des porte-Dieu’ (p.527). He also makes little of parliamentary issues in 1756 as they amount to little in comparison with the early stages of the Seven Years’ War. See D7093, D7094, D7097.

<sup>104</sup> *Histoire du parlement*, p.515. As we have seen, Voltaire’s correspondence of this period is generally silent on the conflicts surrounding *Unigenitus*. However, as they continue into the second half of the century, he generally ridicules these conflicts: D5554, D5577, D5925, D6246, D6965 (October 1753 – August 1756).

attempts to use its function as *cour des pairs* during the eighteenth-century seems misguided to Voltaire (although how he would have ideally viewed this function of the court is hard to say). During the War of the Polish Succession, a Jansenist *convulsionnaire* and counsellor at the parlement named Carré de Montgeron presented to the king a work attesting to the verity of the miracles which were purported to be taking place at the cemetery of Saint Médard (*La Vérité des miracles opérés à l'intercession de M. de Pâris et autres appelants* (Paris, 1737)) for which he was swiftly arrested and taken to the Bastille. The response of the parlement was to send a deputation to the king. For Voltaire, the contrast between the actions of the parlement in this case and its total failure to act accordingly on behalf of a peer of the realm is astounding: 'Il n'avait rien dit quand on avait donné une lettre de cachet au duc de Bourbon, prince du sang et pair du royaume, et il fit une députation en faveur de Carré' (p.504). The reaction of the parlement to the case of sœur Perpétue, who had been refused the sacraments because of her failure to produce a *billet de confession*, took the parlement's role as *cour des pairs* to its limits, in Voltaire's opinion. The parlement of Paris had ordered archbishop Beaumont to provide her with the Eucharist under threat of the seizure of his temporal. The parlement wished to convoke the peers but the king refused to allow it, in spite of the parlement's insistence 'que l'affaire de sœur Perpétue était de l'essence de la pairie' (p.514).

Voltaire often reinforces this criticism by showing public disapproval of the parlement's actions. For example, one of the reasons for the crown's evocation of questions concerning the *Hôpital général* was that 'On était déjà irrité contre ce corps, qui avait fait beaucoup de difficulté pour le vingtième et pour des rentes sur les postes' (p.509). Of course, Voltaire disapproved of what he saw as the parlement's selfish opposition to both these measures.<sup>105</sup> As regards the judicial strikes that punctuated the eighteenth-century conflicts, Voltaire expresses the public's reaction to the loss of their recourse to justice, not to mention the financial inconvenience. During the judicial strikes at Rouen and Bordeaux which followed the *lit de justice* of August 1756, Voltaire states that 'La plus saine partie de la nation murmurait, et disait: "Pourquoi punir les particuliers des entreprises de la cour?"' (p.528). Voltaire shows again this public irritation at the strike by Parisian lawyers acting in solidarity with the 34 members of the parlement of Besançon, arrested for their opposition to certain financial edicts (p.544). However, in general, the author of the *Histoire du parlement* is keen to distinguish between striking magistrates and striking lawyers. The latter, when they revolted following Cardinal Fleury's annulling of an *arrêt* by the parlement of Paris which condemned a pastoral letter by the then archbishop of Paris, Vintimille, 'semblaient plus en droit que le parlement de suspendre leurs fonctions', according to Voltaire, 'car les juges font serment de siéger, et les avocats n'en font point de plaider' (p.498). The judicial strike which resulted from the *Hôpital général* affair ended when the magistrates responded to the

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<sup>105</sup> Voltaire wrote a *Lettre à l'occasion de l'impôt du vingtième* (ed. Henri Duranton, in *OCV*, vol.31B, p.289-314) on 16 May 1749, supporting *contrôleur général*, Machault's introduction of the twentieth tax. Many of the Parisian *parlementaires* would have been *rentiers*.



king's *lettres de jussion* - his musketeers delivering the missives – but the lawyers failed to return to the bar. On this occasion, it is the venality of the magistrates' charges that should both legally and morally have obviated the possibility of a judicial strike. On the striking lawyers, Voltaire states: 'Leur fonction est libre. Ils n'ont point acheté leurs places. Ils ont le droit de plaider et le droit de ne plaider pas' (p.510).

Voltaire may well have criticised the effect of a magistrates' strike but, in reality, this was the same as the effect of an enforced exile of the judges by the royal authority: the administration of justice came to a halt. However, Voltaire's reaction to the exile of magistrates is different and can be explained by another element of his historical narrative from which he does not depart throughout the whole work. We have seen how the use of sources in the writing of the *Histoire du parlement* invites interpretations that are often anti-*parlementaire* and the later chapters of this work are no different in this regard. The parlements' pretensions are targeted less, as presumably Voltaire felt he had sufficiently refuted their historical basis in his treatment of the origins and early history of the courts. In the chapters addressing the history of the parlement during the reign of Louis XV, subtle narrative devices are employed to slight or disparage the court or its members. Voltaire's reaction to their exiles is a good example of this. Their first exile in the court's long history happened during the Regency, after the parlement refused to accept new conditions imposed to resurrect Law's moribund monetary system. According to Voltaire, 'Ce coup d'autorité aurait, en d'autres temps, soulevé Paris; mais la moitié des citoyens n'était occupée que de sa ruine, et l'autre, que de ses richesses de papier, qui allaient disparaître' (p.481). The *gardes du roi* who occupied the *grand'chambre* in the

magistrates' absence, added a taste of the burlesque to the normally staid and solemn chamber: 'on fit des chansons, et on oublia le parlement' (p.482). The *chambre royale*, which was set up to dispense justice after the exile of the parlement in May 1753, also acted in derisive imitation of the court it replaced: 'Tout Paris s'obstina à tourner la chambre royale en ridicule; elle s'y accoutuma si bien qu'elle-même s'assembla quelquefois en riant, et qu'elle plaisantait de ses arrêts.'<sup>106</sup> Worse still, the parlement was not even missed by the public according to Voltaire's description of the public mood. In the absence of the parlement and the general confusion that surrounded this 'tout était tranquille. La police agissait, les marchés se tenaient avec ordre, le commerce florissait, les spectacles réjouissaient la ville, l'impossibilité de faire juger des procès obligeait les plaideurs de s'accommoder: on prenait des arbitres au lieu de juges' (p.522). Where now is the public irritation at the cessation of justice? Voltaire tries to show that there was none, but the ideal which he presents is quickly refuted by the author himself on the same page, where he states 'Il fallait mettre fin à cette espèce d'anarchie'. Voltaire soon finds himself admitting that 'On ne pouvait le [the parlement] tenir toujours exilé, puisque les hommes ne peuvent être assez sages pour ne point plaider' (p.523).

Damiens's attempt on the life of the king (5 January 1757) was carried out following the mass judicial resignation of the majority of the members of the parlement of Paris – only the *présidents à mortier* and ten counsellors did not resign - an angry reaction to the *lit de justice* of 13 December 1756. Rather than criticise the magistrates who resigned, unaware of the horrible events that would ensue, Voltaire

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<sup>106</sup> *Histoire du parlement*, p.521. The parlement, including the *grand'chambre*, was exiled because of its continued disobedience after the king's refusal to hear the *grandes remontrances* of April 1753.

seems to criticise the loyal magistrates for their lack of solidarity with their former colleagues in exile. While he includes the fact that this rump parlement remonstrated against these exiles he goes on to say that the *grand'chambre* 'abandonna le reste de son corps: cette chambre fut alors uniquement occupée du devoir d'instruire le procès de Damiens' (p.539-40). It seems that the magistrates can do no right in Voltaire's eyes when their cessation of service causes public irritation, their exile, public indifference, and their loyalty when it was most necessary, an abandonment of their colleagues.

As in the earlier chapters of his history, Voltaire does not fail to call into question the powers or authority of the parlement of Paris when the opportunity arises. As the Seven Years' War began, the dire state of the royal finances required the creation of new taxes but as Voltaire notes, 'L'usage ne permettait pas qu'on créât des impôts sans qu'ils fussent enregistrés au parlement'.<sup>107</sup> Rather than simply accept the formalities which were part of the law-making process, Voltaire feels it necessary to point out that this parliamentary function is not an inherent right, but simply something which has developed over time. He adds that this refusal to register new taxes was a form of revenge by the parlement for its recent exile, rather than giving the court's more reasonable and understandable reasons for its opposition.<sup>108</sup> This seems like a conclusion drawn at random when Voltaire himself criticised the poor administration of finances at this time (p.525). The attempts by

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<sup>107</sup> *Histoire du parlement*, p.525. The parlement of Paris resisted all increases in taxes until 1760, excepting the doubling of the *vingtième* in July 1756.

<sup>108</sup> The marquis D'Argenson felt that the parlement's opposition was quite valid: 'Le public est très mécontent de la réimposition du Dixième ou doublement du Vingtième [...] on n'y voit pas de sujet, la guerre étant trop peu avancée et l'argent qu'elle coûtera se tenant encore dans le dedans du Royaume.' Cited in Egret, *Louis XV et l'opposition parlementaire*, p.76.

Voltaire to show the parlement in a poor light can often go unnoticed as they might only be expressed in a turn of phrase or by the association of the parlement with terms that would be viewed negatively, but they appear regularly in the pages of the *Histoire du parlement*.<sup>109</sup> Whether this is a style of writing deliberately chosen by Voltaire to achieve a certain effect or, alternatively, a subconscious effect of his usual irreverent style, we cannot say. Both elements are probably at play, and we can state this, *a fortiori*, when we see how the monarchy itself comes in for criticism in these later chapters, either indirectly through a sympathetic presentation of *parlementaire* policies, or through veiled censure of royal policy.

Naturally, the fact that the mid-eighteenth-century conflicts over the bull *Unigenitus* were often played out as conflicts between the clergy and the parlement would incline Voltaire towards supporting the *parlementaire* position because of his anti-clericalism. This support is nevertheless tempered by Voltaire's negative judgement of the parlement's methods of achieving the realisation of its prerogatives and stated aims. At the start of chapter 62, Voltaire is unequivocal in his stance: 'L'opposition constante du parlement aux brigandages du système de Lass [Law] n'était pas la seule cause de l'exil du parlement. Il combattait un système non moins absurde, celui de la fameuse bulle *Unigenitus*, qui fut si longtemps l'objet des railleries du public, des intrigues des jésuites, et des persécutions que les opposants essayèrent' (p.483). And this is not simply a general statement denouncing the

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<sup>109</sup> For example, in his description of events surrounding the refusal of sacraments, Voltaire describes one episode where cardinal Fleury attempts to appease the parlement by sending it letters patent in the name of the king giving the court cognisance of matters concerning miracles and convulsions. Voltaire says the court was 'si flatté de cette marque d'attention qu'il décréta quelques convulsionnaires' (p.502). Earlier in the same page, Voltaire had linked the *convulsionnaires* with certain unnamed members of the parlement.



principle of a bull that attacked the liberties of the Gallican church, for Voltaire denounces equally the practical attempts to impose the bull by the requirement of confession certificates. ‘Il y a eu des nations’, Voltaire explains, ‘chez lesquelles ce refus de la sépulture était un crime du dernier supplice; et dans les lois de tous les peuples le refus des derniers devoirs aux morts est une inhumanité punissable’ (p.506). Not only is this ‘innovation tyrannique’ to be condemned on humanitarian grounds but also as ‘un attentat contre la société civile’ (p.507). The court’s unfailing opposition to these scandals can therefore only be respected by Voltaire, who states that ‘Ce corps continuait à poursuivre avec la même vivacité les curés qui prêchaient le schisme et la sédition’ (p.514). By 1753, the refusal of sacraments had become a common occurrence and not just in Paris but also in other towns such as Amiens, Orléans, Chartres and Tours. Voltaire saw that ‘le schisme paraiss[ait] près d’éclater’ and that the parlement was ready to respond with remonstrances (p.517). However, he cannot support their steps after the king’s refusal to hear these remonstrances. The parlement’s decision to strike, as we have seen, could not be supported by Voltaire. Nor could the court’s refusal to obey the king’s *lettres de jussion*, replying that it could not ‘obtempérer [obey]’. Both these actions by the court would have been illegal in Voltaire’s eyes.<sup>110</sup> As well as being illegal, they did nothing to further the court’s cause (with which Voltaire agreed in principle) on a practical level. With the parlement exiled and a new court in place (the *chambre royale*), the *constitutionnaire* clergy would inevitably be given free rein to refuse sacraments as they wished:

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<sup>110</sup> *Lettres de jussion* were orders addressed to a court to proceed with the registration of a royal edict or declaration. The repeated refusal to obey these letters would leave the king with no other option but to hold a *lit de justice* to enforce his wishes.



‘Pendant que la magistrature était ainsi avilie, le clergé triomphait.’<sup>111</sup> To say that Voltaire would support the parlement’s position as long as its actions supporting this position remained within his understanding of what was legitimate for the parlement to do under the laws of the kingdom corresponds closely to what we noted about his praise for the parlement throughout the work, namely, that it is designed to present an image of a just and obedient court and to define, through this praise, the court’s function in monarchical government. However, in the examples above, Voltaire supports the position of a law-abiding court which is not necessarily following the government line, rather than praising an ideal image of that court for an ulterior motive.

For how long does the court remain within its rights when it acts on its own initiative in a public matter? In the above examples, refusing to obey *lettres de jussion* causes the parlement to lose Voltaire’s support, as does their decision to strike. In the *Hôpital général* affair, which he blames on Beaumont’s ‘envie de mortifier le parlement beaucoup plus que par le zèle de la religion’ (p.508), Voltaire comments that ‘Tout Paris fut indigne’ because of the action taken by the archbishop. However, as soon as the king intervenes, evoking all matters relating to the *Hôpital* to his *conseil*, Voltaire begins to ridicule the court’s involvement in the affair:

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<sup>111</sup> *Histoire du parlement*, p.522. There are other examples of this reaction by Voltaire. After the *lit de justice* of August 1756, held at Versailles, the parlement of Paris assembled at the *Palais* and formally protested against the ceremony, which, as Voltaire says, irritated the royal court. Again, this extreme reaction by the parlement allows the clergy the dangerous breathing space it would not otherwise have had: ‘Le clergé constitutionnaire, croyant le temps favorable, redoublait ses entreprises avec impunité’ (p.528). The *lit de justice* of December 1756 introduced changes to the parlement designed to stifle opposition, and quieten the younger and more recalcitrant magistrates. Measures were also announced to solve the crisis over *Unigenitus*, with the ecclesiastical authorities winning cognisance of cases of refusal of sacraments. The majority of magistrates resigned and Voltaire comments, ‘Le parti de l’archevêque leva la tête plus haut que jamais; les billets de confession, les refus de sacraments, troublèrent tout Paris’ (p.530).

‘Jamais plus petite affaire ne causa une plus grande émotion dans les esprits’, he scoffs. It seems that the parlement may intervene and uphold its interpretation of the laws (which is sometimes supported by Voltaire) until the king contradicts their actions. Now, by this logic, Voltaire would accept unquestioningly Louis XV’s ‘absolutism’ and should submit to his king’s greater wisdom and authority even when this contradicts his position on a particular issue. Voltaire’s support for absolutism, whether constitutional or enlightened,<sup>112</sup> has been accepted for some time and one could be forgiven for seeing in the anti-*parlementaire* stance of the *Histoire du parlement* a confirmation of this theory on Voltaire’s political thought. Voltaire’s criticism of the king’s handling of the conflicts discussed above causes a tension to emerge in the later chapters of this work. If the sole purpose of the *Histoire du parlement* is to deny the court’s pretensions and sway public opinion in favour of royal authority, then it seems distracting, and indeed foolish, to allude to the faults of the monarch as well. But Voltaire clearly does this and his carelessness does not go unnoticed. From the time of their first circulation, the last two chapters of the *Histoire du parlement de Paris*, dealing with Damiens and the expulsion of the Jesuits, were deemed indiscreet by those close to the author.<sup>113</sup> We could point to Voltaire’s comment at the start of the chapter dealing with Damiens, that ‘*Louis le Bien-Aimé* n’était pas alors aussi chéri des Parisiens qu’il l’avait été’ (p.531), or to

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<sup>112</sup> Peter Gay, in his work *Voltaire’s Politics* described the *philosophe*’s political thought as ‘constitutional absolutism’, while a recent work on the same topic, François Quastana’s, *Voltaire et l’absolutisme éclairé (1736-1778)* (Presses Universitaires d’Aix-Marseille, 2003) argues that Voltaire supported the enlightened absolutism which his title suggests.

<sup>113</sup> Mme Denis tells Voltaire that ‘Si l’auteur quel qu’il soit pouvait retoucher les derniers chapitres, et surtout un qu’il faudrait refaire en entier (car tout Paris s’accorde à dire qu’il est plain d’erreur), ce serait à mon avis un fort bon ouvrage, et très utile au bien public’ (D15783, 30 July [1769]). D’Argental, who saw the corrected chapters, comments that ‘Le dernier est bien, c’est celui qui

his tactless familiarity in dealing with the ‘disgrâce’ of Mme de Pompadour. Voltaire himself was aware of this since the start of July, when he mentions that a new edition is being prepared: ‘Je sçais encore qu’il [Grasset, the publisher] en fait une autre édition dans la quelle on dit qu’il y a beaucoup de corrections, et d’additions. Il y a dans celle que j’ay vue depuis cinq ou six jours, quelques expressions peu mesurées que j’aurais conseillé à l’auteur de réformer’.<sup>114</sup> Renwick has traced the evolution of Voltaire’s reaction to the publication of the *Histoire*, starting with an initial denial of authorship and feigned persecution at the ‘injustice’ of such an assertion, accusing variously a ‘jeune maître de requêtes’, an ‘homme de métier’, La Beaumelle and La Harpe, of being the true authors of the work. By the time the second edition is ready for publication, expurgated of the first’s glaring indiscretions, Voltaire is ready to accept authorship of all but the final chapters. This theory that the *Histoire* is the work of ‘deux mains différentes’, as he tells the duchesse de Choiseul (D15822), would become his official line.<sup>115</sup>

Why was there such a change in approach by Voltaire towards the end of the *Histoire*? His indiscretions may suggest simply carelessness in finishing a work he began in earnest and in which he had already achieved his aim.<sup>116</sup> If this carelessness was the result of an eagerness to complete his work then, rather than discounting it as

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regarde les jésuites, l’autre n’est pas encor connu. Il doit être et je conseille à l’auteur de la changer ou de la supprimer’ (D15873 (4 September 1769)).

<sup>114</sup> D15727, Voltaire to Mme Denis (3 July [1769]).

<sup>115</sup> *Histoire du parlement*, p.110-11.

<sup>116</sup> The difference in approach between the earlier and the later chapters of the *Histoire* was also noted at the time in the *Mémoires secrets* (6 August 1769) where, rather than focus on particular chapters towards the end of the work, the whole second volume is lambasted. We read that ‘Dans la seconde, M. de Voltaire sort presque toujours de son sujet; il fait des excursions sur différens morceaux de l’histoire qui paroissent prêter davantage à l’intérêt ou à la curiosité, mais qui ne sont que très indirects à son but’.

less relevant because unpolished, should we not consider it, perhaps, to be a more crude and honest representation of Voltaire's real views on contemporary issues?

My focus in this chapter has been on Voltaire's treatment of earlier parliamentary history because of the central role that history played in eighteenth-century relations between the monarch and the sovereign courts. Through the systematic refutation of parliamentary pretensions and presentation of a French history that is consistently anti-*parlementaire*, Voltaire, in good faith and in bad, produces a history that hides a polemic. Those who question this analysis may ask 'Why then did Voltaire not just write a polemic?' The answer is that in the public domain, history was being used to claim rights which tradition had not allowed before and therefore history was at issue. Perhaps it should also be added that to argue rationally against the parlement's pretensions could never have been as successful as simply denying their historical basis. One interpretative question still remains, however. How do we explain the fact that the chapters of the *Histoire du parlement* dealing with more recent *parlementaire* history, namely, the eighteenth-century conflicts over the bull *Unigenitus* and the opposition of the parlements to royal authority, provide an increasingly complex picture of Voltaire's view of the parlement, and his view of the monarchy for that matter? The answer to this question requires us to look beyond a textual analysis of the *Histoire du parlement* and to examine the question of Voltaire's political thought. This interpretation of the politics of Louis XV's reign is one that I shall now examine in the light of Voltaire's, at times conflicting, histories of the period.

## **Part Three**



## CHAPTER 5

### **Voltaire's Politics after the *Histoire du parlement de Paris*: 'Absolutism', but not Absolutely**

Were it not for the change in the tone and approach in the later chapters of the *Histoire du parlement de Paris*, the political message of this work could be interpreted quite simply as being anti-*parlementaire*. A close examination of Voltaire's tactics in his presentaion of historical facts and his interpretation of the court's history would have tended to confirm such an approach. However, a less prudent approach by the historian in the final chapters reveals a new dimension to the work. This new dimension can be exploited by comparing the presentation of the contemporary history of France, as it appears in these later chapters, to another history, dealing broadly with the same period, but whose purpose was quite different. The result of such a comparison is, I believe, quite revealing for Voltaire's political thought. Before such a comparison is made, I shall look at how others have approached the question of Voltaire's political thought, with a particular focus on the general historical understanding that underpins such interpretations, and all this with

a view to questioning the way in which Voltaire's politics has been approached and proposing another possible reading of this fundamental area of his thought.

### ***Voltaire's Politics: Critical Interpretations***

It is a great testament to the thesis of Peter Gay's *Voltaire's Politics: the Poet as Realist* (1958) that *Voltairistes* still regard the work as the most comprehensive treatment of Voltaire's political thought and a sound interpretation of the *philosophe's* seemingly contradictory forays into the political arena. The *Dictionnaire général de Voltaire*, published in 2003 under the direction of Raymond Trousson and Jeroom Vercruysse,<sup>1</sup> gives its approbation to Gay's work without entertaining any of the pertinent criticisms of his contemporaries.<sup>2</sup> The main thrust of Gay's work, namely, that Voltaire's political thought was never dictated by a dogmatic adherence to any political system but was instead the result of pragmatic and 'politically sagacious' reactions to specific circumstances, has stood the test of time because it is true. It is, therefore, interesting that the editors of the *Dictionnaire général* take up one of the few regrettable terms employed by Gay and present it as the exemplary definition of Voltaire's political ideology. They welcome his term 'constitutional absolutism' as a 'mot heureux'. The term itself does not really reflect the main idea of Gay's work and makes its first appearance in the first of two appendices. In fact, to a certain degree, the baptising of Voltaire's political thought

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<sup>1</sup> Paris: Honoré Champion, 2003. See article 'Politique'.

<sup>2</sup> L.G. Crocker rejected Gay's distinction between enlightened despotism and modern monarchical absolutism as 'a tenuous one' (*Romantic Review*, 50 (1959), 294-97). For René Pomeau, Gay passed too quickly over the question of Voltaire, the historian, from which an analysis of the *philosophe's* politics cannot be separated (*Revue d'Histoire Littéraire de la France*, 61 (1961), 87-88).

with such an oxymoron is at odds with the description of Voltaire's political pragmatism propounded so competently up to that point by Gay. Perhaps a wish to provide posterity with *that* attractive hook, as historians are wont to do, prompted its employment.<sup>3</sup> Whatever the reason, it is not accurate and does little to elucidate the complexity of Voltaire's political thought.

For Peter Gay, 'constitutional absolutism' describes Voltaire's preferred political system and to show this Gay relies on Voltaire's reaction to the parlements in their conflicts with the crown in the late 1760s and 1770s. Voltaire's polemical approach to the parlement is natural in Gay's eyes: it is 'the culmination of his life-long fight for the *thèse royale*' (p.309). We read that 'all his political convictions, all his rancors and enthusiasms, were enlisted in his last great battle for French absolutism'.<sup>4</sup> Gay defines the *thèse royale* as a legal tradition that mixes constitutionalism and absolutism as it 'subjected the crown to the unwritten fundamental laws of France and assumed, further, that the king would obey the decrees he had made' (p.315). Therefore, the premise of Gay's argument (that Voltaire supported absolutism bounded only by the fundamental laws of the monarchy) is also his proof (that he supported French absolutism and the *thèse royale*, or in other words, constitutional absolutism). It may seem pedantic to dissect the argument of a secondary work on Voltaire's politics, such as Gay's, in order to

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<sup>3</sup> For example, the title of Paul Hazard's *La crise de la conscience européenne* has come to sum up the epoch in history it analyses. Peter Gay's description of the Enlightenment as 'The rise of modern paganism' is also a term that has taken hold.

<sup>4</sup> Gay, *Voltaire's Politics*, p.309. It should be noted that Gay believed the unsubstantiated claim that Voltaire's *Histoire du parlement* was written 'probably upon the chancellor's instigation' (p.17).

discuss the subject, but to do so proves an important point about the way in which historians look at the question of absolutism.

In a recent work on the historiography of French absolutism, Fanny Cosandey and Robert Descimon remark that ‘les termes “absolutisme” et “monarchie absolue” sont employés généralement sans souci de définition’.<sup>5</sup> They give numerous examples of the way in which historians of France, even when dealing with the very question of absolutism, dispense with a definition of the term.<sup>6</sup> A reason, perhaps, for the elusive nature of ‘absolutism’ is that those who supposedly lived under it, and supported it as some would suggest, did not use the term. It became fashionable among historians after the revolution of 1830 and throughout the nineteenth century it represented ‘la mauvaise conscience du royalisme’.<sup>7</sup> As research into the nature and practice of absolutism received more attention in the last century, the extent to which absolutism failed to live up to its name became more apparent, with the result that some even questioned whether it had ever existed as a political philosophy or practice.<sup>8</sup> In Gay’s work, there is no definition of absolutism. Voltaire is presumed to support absolutism rather than absolutism being a model to which his specific views correspond. Likewise, the king’s actions are presumed to be examples of absolutism

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<sup>5</sup> Fanny Cosandey and Robert Descimon, *L’absolutisme en France: Histoire et historiographie* (Paris: Éditions du Seuil, 2002) p.13.

<sup>6</sup> Cosandey and Descimon, *L’absolutisme en France*, p.13-14. Even in the work by Yves-Marie Bercé entitled *La naissance dramatique de l’absolutisme (1598-1661)* ‘on chercherait vainement une définition de ce qui est en train de naître si dramatiquement’ (p.13).

<sup>7</sup> Cosandey and Descimon, *L’absolutisme en France*, p.16. In the nineteenth century the term ‘absolutisme’ was associated with despotism, mercantilism and ultramontanism; it was the antithesis of liberalism and constitutionalism. Later, the erring intellectual leap that would associate absolutism and totalitarianism added negative value to this neologism, a value it has had trouble shaking off given its status as the binary opposite of another French historical paradigm, republicanism.

<sup>8</sup> Andrew Lossky, ‘The Absolutism of Louis XIV: Reality or Myth?’, *Canadian Journal of History*, 19 (1984), 1-15.

rather than corresponding to a specific set of practices which can be distinguished as belonging to the tenets of 'absolute monarchy'. The closest Gay comes to a definition of absolutism is his discussion of the *thèse royale*, mentioned above. He explains how it was simply monarchy which did not contradict its own laws or the fundamental laws, namely, the inalienability of the royal domain, the Salic law (exclusion of women from the throne) and the hereditary character of the crown. Yet this definition cannot make the nature of absolutism any clearer, as it has nothing to do with the *practice* of monarchy.<sup>9</sup>

Gay's reliance on Voltaire's reaction to the conflicts between the crown and the parlements in the late 1760s and early 1770s in order to prove his attachment to 'constitutional absolutism' demands serious questioning because Gay's historical understanding of the period is so clearly part of a traditional view of the *ancien régime* that is being increasingly questioned. This view sees the return of the parlement's right to remonstrate during the Regency as the first step in the galvanising of an aristocratic reaction to the suffocating 'absolutism' of Louis XIV's reign. Increasing parliamentary recalcitrance during the reign of Louis XV culminates in a 'réaction absolutiste'<sup>10</sup> which finally breaks the opposition of the sovereign courts by suppressing them entirely in 1771 – the work of chancellor Maupeou – and replacing them with the more docile *conseils supérieurs*. This theory is what Julian Swann describes as 'the "if only" school of eighteenth-century studies' as the general position of its exponents regrets the failure of the reforming ministers such as

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<sup>9</sup> The reader will notice that I have not given a definition of the term, nor do I intend to. I do not feel it necessary to define an anachronistic construction which, as a model for understanding the *ancien régime* during the reign of Louis XV, is not useful.

<sup>10</sup> To borrow the phrase of André Zysberg, *La monarchie des Lumières*, Chapter 8.



Machault and Turgot and asserts that 'if only' their reforms had been firmly applied the monarchy could well have been saved.<sup>11</sup> Peter Gay does not depart in any way from this interpretation. His strict association of Voltaire with the crown during this period is not surprising when we consider that he consistently interprets the conflicts between crown and parlement in favour of the former. He states that Voltaire's support for Maupeou was the wise choice as 'Maupeou needed and deserved support' (p.322). He criticises the other *philosophes*' lack of political vision as 'none of them saw as clearly as Voltaire that Maupeou's program was the best, perhaps the only, hope for saving the country from revolution' (p.323). He makes no secret of his preference for the unsympathetic portrayal of the *parlementaires*' suffering in exile by 'the royalist Pierre Gaxotte' (p.323n). The crown takes no blame for its handling of the parlements or its own weakness. The royal revolution 'was largely a defensive measure, a revolution designed to stave off a revolution' (p.328).

Gay does, however, recognise the serious objection to which his 'constitutional absolutism' is open: in the absence of any body that determines whether the king follows the rule of law and resists him if he does not, he will always be open to the charge of despotism. Gay says, quite rightly, that Voltaire did not have any faith in the existing institutions that could place constraints on royal power, the parlements or the provincial estates. Instead, 'he wanted to check and guide that power by the force of public opinion' (p.330). This may sound quite vague and unsatisfactory, but Gay explains what he thinks Voltaire envisaged: 'Public opinion could exercise influence, and as the enlightenment of the middle classes grew, that influence too would grow. Voltaire's persistent demand for free speech in all matters,

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<sup>11</sup> Swann, *Politics and the parlement of Paris*, p.29-30.

including religion and politics, envisaged a rational administration, governing through fixed rules and cooperating with a free and informed public' (p.330). Even if he did harbour this notion as an unexpressed ideal, the reality of the 'absolutist' policies he is purported to have admired in the Maupeou ministry would have quickly dispelled it.<sup>12</sup> Gay states that in the eighteenth century a choice of three political positions presented itself: the *thèse nobiliaire*, the *thèse royale* and Rousseau's democratic theory. We are told that 'all his life, Voltaire had placed his trust' in the second. In reality, no choice existed. In the period we are examining every soul except for, perhaps, the radical exceptions (namely, Rousseau) accepted the king's full authority.<sup>13</sup> What that 'authority' meant in practice is less clear. However, one can be sure that it depended as much on a historico-political thesis as on conflict, compromise, cabals and clashes of personality. Basically, the dirty, daily human struggle for power that we call politics.

The great *Voltaire*, Theodore Besterman, may well have been critical of Gay's thesis, seeing in what he called a 'selective biography' a taste for paradox that led to some questionable conclusions. However, he reaches very similar conclusions about Voltaire's political views, again relying on the *philosophe*'s support for the crown against the parlements.<sup>14</sup> The reasons for this support are fourfold: Voltaire could not support the parlements because of, 1) his passion for freedom, 2) his

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<sup>12</sup> Voltaire was sadly aware of the increased difficulty in circulating new publications under Maupeou, including the latest volumes of the *Questions sur l'Encyclopédie* in France: D17153, Voltaire to Cramer ([c.25 April 1771]).

<sup>13</sup> Even the most radical parliamentary remonstrances were prefaced with royalist effusions.

<sup>14</sup> Theodore Besterman, 'Voltaire, absolute monarchy, and the enlightened monarch', *SVEC* 32 (1965), p.7-21. His historical view also corresponds to that of Gay, seeing in the conflict between crown and parlement as a Manichean struggle between the conservative aristocracy and a progressive monarchy.

scepticism of reform by committee and his belief that good things could only be achieved by the genius of one man, 3) their conservatism and, 4) his belief that wisdom is found in individuals, not in groups. To a certain extent, the first and third reasons could as easily be used against a French monarchy that was umbilically attached to the clergy. The second and fourth are, essentially, the same reasons and correspond to Voltaire's faith in the great reign's of Henri IV and Louis XIV, individuals who had brought glory to the French nation. Besterman continues, 'Thus it was that Voltaire arrived *ineluctably* at the conviction that the only possible system of government for France was an absolute monarchy (my emphasis)' (p.17). I would suggest that there is nothing *ineluctable* about such a conclusion. We could certainly conclude that Voltaire supported those whom he considered to be great monarchs, but to extend this conclusion to a *conviction* that *absolute* monarchy was the only satisfactory system stretches the plausibility of Besterman's argument.

The most recent examination of Voltaire's political thought is François Quastana's *Voltaire et l'Absolutisme éclairé (1736 – 1778)*,<sup>15</sup> another work that takes our understanding of that elusive term 'absolutisme' for granted, while at the same time asserting that we nearly all agree that Voltaire supported it (p.16). 'Absolutisme éclairé' is defined as follows: 'Il s'agit essentiellement d'une volonté d'adaptation et de conversion des monarchies absolues à l'esprit du siècle, l'expression désigne un système de gouvernement monarchique et absolutiste qui ne repose plus sur le droit divin et la tradition mais au contraire sur les lumières et la raison, dans une perspective de développement et de progrès' (p.13). 'Absolutisme éclairé' differs from the kind of classical absolutism expounded by Bossuet in his *Discours sur*

*l'histoire universelle* (1681) by the rejection of God as the source of all power.

Absolute power now draws its legitimacy from the use of reason.<sup>16</sup> According to Quastana, Voltaire could be considered in many ways to be the inventor of this doctrine which was later advanced, albeit in a modified form, by the physiocrats (who still accepted the divine right of kings). Voltaire supported (or invented) 'absolutisme éclairé' because it was the only regime capable of bringing about the reforms that he promoted.

Quastana's understanding of the history of the *ancien régime* is much like that of Gay. The monarchy's actions at the end of the 1760s and early 1770s are seen as a reaffirmation of absolutism after the parlement's increasingly dangerous attacks on monarchical authority.<sup>17</sup> Most indicative of Quastana's personal view is his approval of Michel Antoine's judgement that 'le chancelier ne faisait que mettre en œuvre les prérogatives de la monarchie absolue' (p.194). The problem for Quastana in accepting such a judgement is the confusion that arises when we consider whether the monarchy's actions are viewed by him as conforming to 'absolutisme éclairé' or classical absolutism, a distinction he has been so keen to make clear. He states that Voltaire's reasons for supporting Maupeou were his faith in the monarchy and in enlightened absolutism (p.189) and that the *philosophe* hoped to see in Maupeou's reforms 'une *relance* de l'absolutisme éclairé en France' (my emphasis) (p.194). The coup Maupeou therefore represents for Quastana both the re-establishment of

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<sup>15</sup> Presses Universitaires d'Aix-Marseille, 2003.

<sup>16</sup> See Quastana, *Voltaire et l'absolutisme éclairé*: 'Les princes éclairés ne s'entendent plus comme des souverains de droit divin mais comme des serviteurs de l'Etat et de leur sujets' (p.59).

<sup>17</sup> The 'radical' reaction of the monarchy is seen in the *séance de la flagellation* (3 March 1766), the dismissal of Choiseul (December 1770) and Maupeou's coup (which began with the edict of 23 February 1771).

enlightened absolutism and the assertion of the crown's traditional absolutism. He does not say when enlightened absolutism had previously prevailed in France (and it could not have been that long before if Voltaire had 'invented' it). What then does Voltaire's support for the coup Maupeou mean for his political thought? Can we say any more than simply state that Voltaire supported the monarchy and that, in reality, this monarchy was to a greater or lesser extent absolute in various circumstances, that its 'constitution' was based around a greater or lesser degree of consensus on the norms by which legislation was promulgated, and that if ministers did introduce reform in the name of the king, it was dictated by dire financial necessity or the need to maintain order in the realm. In reality, the practice of what historians call 'absolutism' did not correspond to a doctrine of constitutional, classical or enlightened absolutism, however constructed. How then can we say that Voltaire envisaged an ideal Utopian system when all agree that system building and Utopian fantasies were alien to his pragmatic and realistic thought?

Of course, commentators have not simply confined themselves to the later stages of Voltaire's life in their discussion of his political thought. Because of its very pragmatic nature, a comprehensive treatment of the subject must look at every area of his life.<sup>18</sup> Some have examined his negative reaction to the 'peuple' and concluded that everything he stood for echoed the positions of the *bourgeoisie*, with the resulting injustice that 'Elle [the *bourgeoisie*] voulait s'affranchir du système féodal, avec l'aide du peuple, sans pour autant abandonner la possibilité d'exploiter

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<sup>18</sup> For this reason, Besterman's criticism of Gay's work as a 'selective biography' is a little unfair.



ce peuple à son profit'.<sup>19</sup> Voltaire believed in the necessity of inequality, as the state needed a lot of useful men who owned nothing and whose labour would drive the economy. His historical inquiries proved sufficiently that 'les masses populaires sont la proie facile de la superstition et du fanatisme, mais aussi qu'elles sont capables des atrocités les plus révoltantes et les crimes les plus inhumains'.<sup>20</sup> Roland Mortier explains, however, that Voltaire's belief that the 'peuple' should not be educated is not dictated by a wish to safeguard the socio-economic privileges of his class, but is part of his belief in the nature of progress: 'Les "lumières" doivent donc se diffuser, et se diffuseront un jour, mais par étapes successives. Le peuple finira par en bénéficier insensiblement, non par une initiation brutale qui les jetterait dans l'oisiveté et dans la subversion, mais par une sorte de lente osmose.'<sup>21</sup>

Voltaire's belief in the importance of national power was also vital to his political thought.<sup>22</sup> For a state to defend itself robustly in wartime it needed to be wealthy and therefore anything that contributed to that wealth should be welcomed. Commerce and manpower were important for this reason. Even his arguments for

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<sup>19</sup> Jean Varloot, 'La Philosophie et la politique dans les "contes" de Voltaire', *La Pensée*, 88 (1959) p.42. In a letter to Damilaville (D13232) Voltaire explains what he means by 'peuple': 'la populace qui n'a que ses bras pour vivre'. He informs his correspondent of the necessity of 'gueux ignorants': 'Si vous faisiez valoir comme moi une terre, et si vous aviez des charrues, vous seriez bien de mon avis.'

<sup>20</sup> Roland Mortier, 'Voltaire et le peuple', in *The Age of the Enlightenment: Studies presented to Theodore Besterman* (Edinburgh and London: Oliver & Boyd, 1967), p.137-51 (p.120).

<sup>21</sup> Mortier, 'Voltaire et le peuple', p.145. However, Mortier does not address the contradiction inherent in his explanations. Voltaire cannot very well dismiss the populace as brutish and superstitious and then condemn them to this condition by denying them education. His belief that the poor need religion to keep them well behaved (M.xxvi.511-12; M.xvii.463) would only compound the situation as it would end up breeding the fanaticism and superstition he abhors in them. Even Voltaire himself recognised that it might be necessary to educate the 'peuple' in order to prevent fanaticism from taking hold in the lower orders of society: '[L]e peuple est toujours porté au fanatisme; et peut-être n'y a-t-il d'autre remède à cette contagion que d'éclairer le peuple même; mais on l'entretient quelquefois dans des superstitions; et on voit ensuite avec étonnement ce que ces superstitions produisent' (*Précis du siècle de Louis XV*, ed. René Pomeau, in *Œuvres historiques*, p.1531).

<sup>22</sup> M. L. Perkins, 'Voltaire on the source of national power', *SVEC* 20 (1962), p.141-173.

tolerance are based on its contribution to national growth as much as on humanitarian grounds.<sup>23</sup> Likewise, his opposition to religious orders is framed in economic terms.<sup>24</sup> Voltaire's own economic activity as *seigneur de village* in Ferney is relevant to his political thought, a point made by Perkins and René Pomeau, the latter seeing a change in Voltaire's political views coincide with his new status: 'Désormais, lui naguère si favorable à la centralisation monarchique, si hostile à "l'anarchie féodale", il exalte le rôle du gentilhomme de campagne, à condition toutefois que celui-ci y réside.'<sup>25</sup>

Others still have seen Voltaire's historical philosophy as crucial to an understanding of his political views. Brumfitt did not take Voltaire seriously as an historian and saw in the *philosophe* 'a propagandist interested in changing society as much as in describing it'.<sup>26</sup> For Catherine Volpillac-Augé, history is the medium through which Voltaire channels his most intimate opinions: 'Il ne projette donc pas ses sentiments dans l'avenir ou la fiction, mais dans le passé, sur des personnages historiques assez ressemblants pour autoriser, voire suggérer des rapprochements avec le présent, mais surtout assez différents pour éviter des assimilations trop faciles, dangereuses et restrictives.'<sup>27</sup> Thus history is a way of dealing with

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<sup>23</sup> On the importance of economic arguments for toleration, see *Traité sur la tolérance*, ed. John Renwick, *OCV*, vol. 56C, p.70-76.

<sup>24</sup> In *La voix du sage et du peuple*, Voltaire proposes that a convent with fifty members would do better to send these people back to the land as 'ces cinquante fainéants, rendus à la patrie, cultiveraient la terre, la peuplèrent, et qu'il y aurait plus de laboureurs et de soldats' (ed. David Williams, in *OCV*, vol.32A (Oxford: VF, 2006) p.242).

<sup>25</sup> René Pomeau, *Politique de Voltaire* (Paris: Armand Colin, 1963) p.18. Voltaire's development of Ferney from 1767 on is described as 'une sorte de colbertisme local' (p.19). Fernand Caussy made a similar point in his work *Voltaire, seigneur de village* (Paris: Hachette, 1912) p.132. A more recent analysis of Voltaire's contribution to his local community can be seen in Pomeau, «Ecrasez l'Infâme», p.18-79.

<sup>26</sup> Brumfitt, *Voltaire: Historian*, p.166.

<sup>27</sup> Catherine Volpillac-Augé, 'Auguste et Louis XIV: Les Contradictions de Voltaire devant le pouvoir absolu', in *La Monarchie absolutiste et l'histoire de France, Théories du pouvoir*,

contemporary political issues (a point which the previous chapter clearly showed). It has been suggested that this reliance on history and empirical facts in his discussion of political issues shows that Voltaire lacked the capacity to deal theoretically with political philosophy as his contemporaries had done.<sup>28</sup> Lester Crocker sums up this characteristic quite accurately when he states that 'Voltaire was undistinguished and even inept as a political thinker at the theoretical level, though his critical acumen could often spy a weak spot and capitalise brilliantly on it' (p.17). This is something that should be kept in mind when we approach the question of Voltaire's political thought, and for two reasons. First, since Voltaire was either unwilling or unable to deal with political questions on a theoretical level, we must be careful not to attribute to him too systematic a model, such as 'constitutional absolutism' or 'absolutisme éclairé'. Second, his brilliant ability to capitalise on the poor arguments of others should make us wary of lending too much weight to certain pronouncements that, rather than propounding a deeply felt viewpoint, are simply skilful repartee or rash counter-argument.

Needless to say, it could never be my intention here to examine the evolutions of Voltaire's political thought throughout his lifetime and in the many areas that affected it. I shall confine my study to the 1760s and early 1770s, the period, as we have seen above, on which others have relied to prove Voltaire's attachment to 'absolutism' in whatever form.<sup>29</sup> There is no doubt that this period has

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*propagandes monarchiques et mythologies nationales*, Colloque tenu en Sorbonne les 26 et 27 mai 1986 (Paris: Presses Universitaires de Paris Sorbonne, 1987), p.211.

<sup>28</sup> Lester G. Crocker, 'Voltaire and the political philosophers', *SVEC* 219 (1983), p.1-17

<sup>29</sup> It should be noted that the most recent work in English on Voltaire's politics, *Voltaire: Political Writings*, ed. David Williams (Cambridge: Cambridge University Press, 1994), is essentially an introductory text to Voltaire's political thought. It therefore provides the established view expressed by Peter Gay's *Voltaire's Politics*. Voltaire is attracted to 'supreme power' provided that this is

been relied upon because it shows Voltaire at his most overtly politicised, that is, because he takes up a position in what is essentially a political struggle.<sup>30</sup> All the more reason then to re-examine Voltaire's political reaction to this period in the light of the *Histoire du parlement*, a highly political and polemical history.

### **Political Histories: The Histoire du parlement de Paris and the Précis du siècle de Louis XV**

It has been suggested that in order to understand Voltaire's political views it is necessary to examine his historical writings, as here in the safety of the past he implies comparisons with the present, subtle enough not to be dangerous and yet clear enough to be recognised.<sup>31</sup> While this may well be true, we must not forget that Voltaire, the historian, did not shy away from the present, and that his interpretation of the history through which he lived reflects, *a fortiori*, his political views. Of course, not all of Voltaire's histories have the same status. Some, such as the *Siècle de Louis XIV* and *Précis du siècle de Louis XV*, lie at the heart of his historical *œuvre*. One could say that the latter was written by an historian still working in the mode of *historiographe du roi*.<sup>32</sup> At the other end of the scale, the highly political and

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'tempered by wisdom, tolerance and, above all, law' (p.xv), by this Williams seems to be suggesting the model of enlightened/constitutional absolutism.

<sup>30</sup> I accept that others may feel that Voltaire had been 'overtly politicised' at other times in his life, whether on his diplomatic missions or in his interventions in favour of victims of injustice. However, in this instance, I use the word 'politicised' in the restricted sense of participation in activity pertaining to the administration of government.

<sup>31</sup> Volpilhac-Augier, 'Auguste et Louis XIV', p.211.

<sup>32</sup> Voltaire was named *historiographe du roi* in March 1745 but was forced to renounce the post when he joined Frederick's court in Potsdam five years later. His first project was to write the *Histoire de la guerre de 1741* which did not appear until 1755. In 1763, eighteen chapters dealing with events after the death of Louis XIV (with facts drawn heavily from the *Histoire de la guerre de 1741*) were added to the *Siècle de Louis XIV* forming part of an edition of the *Essai sur l'histoire générale*. In 1768, twenty-one chapters were added to the previous eighteen and this reunion took on the title of *Précis*



polemical *Histoire du parlement de Paris* emerged from a foreign press under a pseudonym.<sup>33</sup> I would argue that while the interpreters of Voltaire's political thought rely, quite rightly, on the kind of official histories that form the basis of a work such as René Pomeau's edition of Voltaire's *Œuvres historiques* (Paris: Gallimard, 1957), it is interesting to compare this 'official' history, the authorship of which Voltaire did not fear to claim, to the more private and perhaps visceral views expressed in a work such as the *Histoire du parlement*. It is particularly useful to compare the *Précis du siècle de Louis XV* and the *Histoire du parlement de Paris* because both works dedicate a certain number of chapters to the same period in France's contemporary history. The divergences and convergences that such a comparison reveals are enlightening as to Voltaire's political views during the period being described. Indeed, the reasons for the differences between these very similar histories could go some way towards explaining Voltaire's seemingly wholehearted approval of Maupeou's reforms which are usually seen as simply confirming his adherence to the political philosophy of absolutism.

The sections of these two works that I propose to examine are chapters 64, 65 and 66 of the *Histoire du parlement* and chapters 36 and 37 of the *Précis du siècle de Louis XV*. Both sets of chapters deal with the religious conflicts surrounding *Unigenitus* and the *billets de confession*, from 1750 until Damiens's assassination

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*du siècle de Louis XV*. Brumfitt notes that 'the *Précis du Siècle de Louis XV* consists partly of chapters written when Voltaire was *Historiographe du roi* and in which courtly flattery is all too obvious' (*Voltaire: Historian*, p.70).

<sup>33</sup> The first edition of the *Histoire du parlement* was printed in Amsterdam by Marc-Michel Rey, while two months later a revised edition emerged from the presses of Grasset in Lausanne. Cramer produced a fifth edition from his presses in Geneva. The first three editions showed the author as 'L'abbé Big...', while in the fourth edition, this name is completed to read 'L'abbé Bigore'. See *Histoire du parlement de Paris*, ed. John Renwick, p.113-14.



attempt on Louis XV. Both works are similar in their approach to this period in that they treat the conflict essentially as one between the French clergy and the parlements. They differ perhaps only in emphasis but this emphasis is significant. Whereas in the *Précis*, the king is consistently a voice of moderation, endeavouring to quell the conflicts in his kingdom, he proves to be a less competent leader in the *Histoire du parlement*.

Both works touch on the *Hôpital général* affair, a result of the bull *Unigenitus* and an excellent example of the difficulties caused in the kingdom when the archbishop of Paris, Christophe de Beaumont, attempted to encroach on what Parisian magistrates saw as the jurisdiction of the parlement of Paris. Both parties claimed that they alone had the right to appoint members to the board of the nine institutions that comprised the *Hôpital général* - which looked after lunatics, fallen women, prisoners and the sick - but the archbishop was intent on removing any members with Jansenist sympathies. Voltaire, in the *Précis*, sees this as another example of the conflicts between the clergy and the parlements and explains it simply as follows: 'L'archevêque voulut seul nommer à cette place; le parlement de Paris s'y opposa' (p.1516). The magistrates of the parlement eventually went on strike (24 November 1751) and were followed in their protest by the lawyers, who remained on strike even after *lettres de cachet* forced the return of the *parlementaires* 'sous peine de désobéissance' (28 November 1751). Voltaire sums up his description of this confrontation, after comparing it to the Fronde, with a royalist platitude: 'Le roi résolut d'éteindre, par sa modération, ce feu qui faisait craindre un incendie' (p.1516). The same king's moderation is entirely absent in the more detailed account of this affair in Voltaire's parliamentary history. In fact, the parlement's right to

appoint members of the board of the *Hôpital général* is implicitly defended, even if Voltaire does finally disapprove of the methods used by the court to make its point.<sup>34</sup> However, here he defends the lawyers' right to take strike action and the issue is finally resolved by their decision to return to the bar rather than by any royal intervention.

Cases of refusal of sacraments continued after the *Hôpital général* affair prompting the parlement to produce remonstrances which are described in the *Précis* as 'fortes et pathétiques' (p.1516). The king's response to these remonstrances is that he wished to be informed by the parlement of refusals of sacraments, but reserved the right to punish those involved. The parlement's protests are described in the *Histoire du parlement* as 'les remonstrances les plus amples et les plus éloquentes qu'on eût encore faites sur le danger du schisme, sur les abus de la religion, sur l'esprit d'incrédulité et d'indépendance que toutes ces malheureuses querelles répandaient sur la nation entière'. And the king's response? 'On lui répondit des choses vagues, selon l'usage' (p.512). As the parlement continued to produce remonstrances, the king's moderation, objectivity and paternalistic approach are again underlined in the *Précis*: 'le roi persista à exhorter les deux partis à la paix. Ses soins furent inutiles' (p.1517). No such objectivity is evident in the description of the same period in the *Histoire du parlement*: 'Le roi, qui s'était réservé la connaissance de toutes ces affaires, blâma son parlement, et donna mainlevée à l'archevêque de la saisie de ses rentes' (p.514). Whether Voltaire's approach to the writing of both histories was the

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<sup>34</sup> He recognises that 'supérieures' were 'placées depuis longtemps dans ces postes par les magistrats du parlement' (p.507) and that 'Il y a peu de fonctions spirituelles attachées à des femmes chargées d'un soin domestique immense' (p.508). Voltaire is always critical of the *parlementaires*' strikes, as we saw in the previous chapter: (*Histoire du parlement de Paris*, p.498, 510, 528).

same or not, the result is clearly quite different. Time and again, the *Précis* shows the king's person arbitrating a conflict which sees the clergy and the parlement in direct confrontation. The image that is used may change, but the idea being presented is always the same. We read that 'Le roi recommanda toujours la paix, sans que les ecclésiastiques cessassent de refuser les sacraments, et sans que le parlement cessât de procéder contre eux' (p.1517) and that during these conflicts 'Louis XV était comme un père de famille occupé de séparer ses enfants qui se battent'.<sup>35</sup> Of course, such continual reference to conflicts could be seen by certain readers as a subtle criticism of the king's moderate stance and his inability to actually deal with the internal troubles in his kingdom, but Voltaire does not make this point, even implicitly, in the *Précis*. Instead, he shows very generous understanding of the king's position in concluding chapter 36 that 'il était très difficile de faire le bien, et il ne s'agissait presque plus que d'empêcher qu'on ne fit beaucoup de mal' (p.1526).

The *Histoire du parlement de Paris*, on the other hand, does not fail to point out those moments during this turbulent period in French history when the king's policy or response to the conflicts was ill-advised or incompetent. In the early days of parliamentary opposition to *Unigenitus*, three priests from the diocese of Orléans began a process of *appel comme d'abus*<sup>36</sup> against the bull with the help of a favourable consultation signed by forty Parisian lawyers. Cardinal Fleury procured an *arrêt du conseil* against this consultation but Voltaire questions the wisdom of

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<sup>35</sup> Pomeau, *Précis du siècle de Louis XV*, p.1518. Voltaire describes Louis XV's exile of the archbishop of Paris in terms of the monarch's wish to keep a balance in his handling of affairs (p.1521). Even Damiens's attack on the king's life does not sway him in his determination to act with moderation in his handling of the conflicts: 'Le roi malgré l'attentat commis sur sa personne, malgré une guerre ruineuse, s'occupait toujours du soin d'étouffer les querelles des parlements et du clergé, essayant de contenir chaque état dans ses bornes' (p.1531).

such an action: 'Condamner les jurisconsultes à penser autrement qu'ils ne pensent, c'est un acte d'autorité qu'il est difficile de faire exécuter.' Their continued defiance until their position is accepted by the crown is seen as a triumph for reason: 'Des simples citoyens triomphèrent n'ayant pour armes que la raison' (p.495). Later the following year, Fleury annulled an *arrêt du parlement* condemning a pastoral letter by the then archbishop of Paris, Vintimille, after which the Parisian bar went on strike. Voltaire feels it necessary to question the king's order that the parlement not involve itself in the matter with the ready response that 'il fallait bien pourtant qu'il [the parlement] s'en mêlât, puisque sans avocats il était difficile de rendre la justice' (p.498). Voltaire's tongue is firmly in his cheek as he describes the crown's response to the miracles reported by Jansenists at the graveyard of St. Médard: 'Le gouvernement avait déjà fait fermer le cimetière de Saint-Médard, avec défense d'y faire aucun miracle' (p.501-02). The crown's actions (and inaction) are however more than just the subject of ridicule. The *chambre royale*, the court established by the crown to deal with the dispensing of justice after the parlement's exile to Pontoise in 1753 was never treated with the respect such an institution would normally command. According to Voltaire, the difficulties in establishing the court and the opposition to it from other royal courts 'compromettaient la dignité de la couronne' (p.520). The king's procrastination and his failure to address the parlement's remonstrances against *billets de confession*, Voltaire implies, precipitated the *Hôpital général* affair as this interval of inaction gave archbishop Beaumont the opportunity to meddle in the composition of the charitable institution's board: 'Le roi, qui ne

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<sup>36</sup> An appeal to the parlement against an ecclesiastical authority thought to be exceeding its jurisdiction.

voulait point se compromettre, laissa une année entière les remontrances sans aucune réponse précise' (p.507). Perhaps the greatest criticism of Louis XV's regime regards his inconsistency. While in the *Précis* the monarch is a constant, benevolent father dealing firmly with his bickering children, the *Histoire du parlement* presents him as a partisan whose loyalties change in the manner of a courtier. Now he supports the parlement, now the clergy. 'Tant les choses changent aisément à la cour!' (p.526), Voltaire quips. After the Damiens's attack, our historian has the imprudence to mention the fact that Mme de Pompadour was sacrificed to save the parlement's blushes. Voltaire also lists those ministers who had served and been exiled by Louis XV: The duc de la Rochefoucauld (1744), 'le plus honnête homme de la cour', the comte de Maurepas (1749), 'le plus ancien de ses ministres', Chauvelin, Keeper of the Seals (1737), 'qui a toujours conservé de la réputation dans l'Europe' (p.540) and these among many others. Such was the fate of many ministers in France: 'ils exilent, et on les exile; ils emprisonnent, et ils sont emprisonnés.' Normally, the faults with monarchical government in France were put down to ministerial incompetence, but responsibility for the failure to support a minister and the continual exiles of ministers could only fall to one man. In the final lines of chapter 67, in the first edition of the *Histoire du parlement*, we read that 'Louis XV, qui ne savait qu'exiler' sent the archbishop to Périgord. Voltaire had the good sense to ensure that this indictment of the king's abilities was not repeated in further editions.<sup>37</sup>

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<sup>37</sup> After the first edition printed by Marc-Michel Rey and an augmented and corrected edition from Grasset's presses in Lausanne, which he reprinted, this criticism became 'Louis XV accoutumé à l'exiler l'envoya [the archbishop] en Périgord.'



What then should we make of Voltaire's approval of what some would describe as 'enlightened absolutism' in the *Précis du siècle de Louis XV*? On two occasions in chapter 36, positive references are made to the king's deviation from the laws of the kingdom through his better judgement. At the height of the troubles caused by the refusal of sacraments, 'Le parlement dans toutes ses démarches ne consultait que ses lois et le maintien de son autorité. Le roi voyait au-delà, il considérait les convenances qui demandent souvent que les lois plient' (p.1519). Later, Voltaire approves of the parlement's attachment to the liberties of the Gallican church but defers finally to the king's authority: '[Le parlement] soutenait les libertés de l'Eglise gallicane, et le roi l'approuvait; mais quand il allait trop loin, le roi l'arrêtait; et en confirmant la partie des arrêts qui tendait au bien public, il cassait celle qui lui paraissait trop peu mesurée' (p.1521-22). These quotations seem heaven sent for the historian who wishes to give proof of Voltaire's attachment to absolutism tempered by the laws and reason but are they just another example of his intention to portray the idealised image of the king as a father figure arbitrating with wisdom and moderation? To answer this we must decide which version of eighteenth-century history we believe more closely represents Voltaire's personal view.

The status of the *Précis du siècle de Louis XV* as a history that flatters its subject could not be more clearly shown than in a letter from Voltaire to the duc de Richelieu in July 1769. The letter accompanied a copy of Voltaire's history which he asked Richelieu to place 'sur la toilette de Mme du Barry pour le Roi'.<sup>38</sup> Voltaire was

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<sup>38</sup> D15787, Voltaire to Richelieu (31 July 1769).

clearly aware that the presentation of the king would be pleasing to him. It could be suggested that the *Histoire du parlement* is the more representative of Voltaire's actual views because it provided him with the opportunity to express himself more freely.<sup>39</sup> It also provided, if not a cloak of anonymity, then at least freedom from pursuance by the censors because of its ostensibly anonymous nature. Flattery of the monarch, which would not have been out of place in a work that targeted the parlement's opposition to him, is absent. The sort of self-censorship we see at times in the *Précis* is abandoned in the *Histoire du parlement* in favour of an imprudent honesty. In chapter 36 of the *Précis*, Voltaire introduces the conflicts between the parlement and the clergy as 'cette guerre si ancienne et si interminable, entre la juridiction séculière et la discipline ecclésiastiques (my emphasis)' (p.1541). In the *Histoire du parlement*, these same conflicts are referred to as 'les querelles entre la juridiction civile et les prétentions ecclésiastiques (my emphasis)' (p.517). And this kind of self-censorship is not just evident in subtleties of language but also in the facts that are recalled. In the *Précis*, Voltaire describes Machault d'Arnouville, then *contrôleur général*, as 'un ministre des finances assez hardi pour faire ordonner que le clergé et les religieux donneraient un état de leur biens' (p.1514). He also omits from his citation of Damiens's letter to the king the *post scriptum* in which Damiens asserted that 'monseigneur le garde des sceaux [Machault] a fait chauffer deux pinces dans la salle des gardes, me tenant lui-même, et ordonné à deux gardes de me

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<sup>39</sup> Of course, Voltaire's style was easily recognisable, but not having his name on the title page at least left him the possibility of his customary denials.

brûler les jambes, ce qui fut exécuté en leur promettant récompense', a fact he recklessly records in the *Histoire du parlement*.<sup>40</sup>

Even if we read chapters 36 and 37 of the *Précis* as a critique of French society this criticism confines itself almost entirely to religion and its dangerous effects on the health of the kingdom. Damiens's assassination attempt, like the problems surrounding the adoption of *Unigenitus* into French law, stem from religious fanaticism, something Voltaire does not hesitate to condemn at every opportunity in his letters, theatre, and, polemical and historical works. The critique is much broader in the *Histoire du parlement*, and where it does target religion, it is more specific. While *Unigenitus* is not blamed directly by Voltaire in the *Précis*, where he states merely that the bull 'était en exécration aux peuples' (p.1515), it is condemned in the *Histoire du parlement* as 'cette malheureuse constitution [...] source de tant de troubles' (p.498). We could also point to his defence of deism (p.503-04) and his severe criticism of *billets de confession* (p.506) as examples of the freedom with which he expresses himself in the *Histoire du parlement*. In chapter 36 of the *Précis*, *billets de confession* are something to be ridiculed<sup>41</sup> while in the *Histoire du parlement* they are an 'innovation tyrannique' and 'un attentat contre la société civile' (p.507), something that Voltaire views seriously and as detrimental to

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<sup>40</sup> *Précis du siècle de Louis XV*, p.1529n: Pomeau suggests that it was omitted 'probablement par égard pour Machault'. In the *Histoire du parlement*, we read that before the arrival of the *grand prévôt*, the guards who held Damiens 'avaient tenaillé ce misérable avec des pincettes rougies au feu, et le garde des sceaux Machault leur avait même prêté la main' (p.535). Voltaire had a copy of publication containing the letter Damiens wrote to the king as well as other relevant documents relating to the case in his library: *Pièces originales et procédures du procès fait à Robert-François Damiens, tant en la prévôté de l'Hôtel qu'à la cour du parlement* (Paris, 1757) (BV1966).

<sup>41</sup> 'Il y avait dans Paris cinquante mille énerguènes, qui ne savent pas en quel pays coulent le Danube et l'Elbe; et qui croyait l'univers bouleversé pour les billets de confession; tel est le peuple' (p.1515).

France's internal peace. France's laws are also shown to differ from those of England in the case of Carré de Montgeron, a fervent Jansenist who dared to pester the king with his proof of the verity of the miracles performed at the cemetery of St. Médard. On French soil, this poor wretch is treated as a criminal, however, in England, 'ce pays gouverné par des lois [où] on ne punit point le ridicule' (p.504) he would have been freed and jeered at. This wide-ranging expression of strongly held opinions in the *Histoire du parlement* suggests that it is perhaps more closely representative of Voltaire's personal view of public affairs during the 1750s and 1760s than the *Précis du siècle de Louis XV*.

On the other hand, it could also be suggested that both works are representative of Voltaire's view but that this view was changing in the mid-1760s. Chapter 36 of the *Précis du siècle de Louis XV*, entitled 'Gouvernement intérieur de la France. Querelles et aventures, depuis 1750 jusqu'à 1762', formed part of chapter 59 of the *Essai sur l'histoire générale*, published in 1763.<sup>42</sup> We can tell from his correspondence that this chapter was being written by Voltaire in the summer of 1762.<sup>43</sup> While an exact date for the composition of the *Histoire du parlement* is not known, it is clear from his correspondence that questions of the parlement's history concerned him and that materials were being collected for this work throughout

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<sup>42</sup> In 1763, in tome VIII of the *Essai sur l'histoire générale*, published by Cramer, eighteen chapters on events relating to French history after 1715 were added to the *Siècle de Louis XIV*. The publication of the critical editions of the *Siècle de Louis XIV* and *Précis du siècle de Louis XV* should give us a much clearer idea of the extent to which Voltaire's views were evolving and how these views were expressed in his histories. Until such time, we can only make reasonable assumptions and tentative assertions.

<sup>43</sup> D10593, Voltaire to the D'Argental (17 July 1762). He tells them in July that 'Cet archevêque et ses billets de confession m'occupent à présent; je rapporte son procès'.

1768.<sup>44</sup> In this interval, was Voltaire's faith in the monarchy in decline? At first glance, the answer may appear to be 'No' as Voltaire's attitude towards the parlement becomes much more critical, with the result that he consistently supports the monarchy's position when it conflicts with that of the parlement. His reaction to the parlement's remonstrances – and there were many during the financial crisis that followed the end of the Seven Years' War – is unrelentingly negative.<sup>45</sup> The La Chalotais affair in Brittany also saw Voltaire support the position of the monarchy (D13232, D13487, D13562, D13720) in spite of his doubts over this magistrate's guilt (D13205). Many other actions by the parlements caused the *philosophes* to decry them, including their opposition to inoculation against smallpox,<sup>46</sup> but Voltaire's position was mainly a reaction against the injustice meted out to those who came before the sovereign courts. The case of Jean Calas did much to create a negative view of the parlement of Toulouse in Voltaire's mind, as did the magistrates' attempts to falsify documents in order to prevent this innocent victim's rehabilitation.<sup>47</sup> Consequently, Voltaire had grave fears for the welfare of the Protestant Sirven, should his case come before the Toulouse magistrates on appeal. The execution of the Franco-Irish *lieutenant général* Lally, captured by the English at Pondichéry and tried on charges of treason on his return, was deplored in

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<sup>44</sup> *Histoire du parlement de Paris*, p.52-59.

<sup>45</sup> See, for example, D11233, D11269, D11388, D11401, D11435.

<sup>46</sup> See, for example, D11269, D11270, D11273 and his pamphlet *Omer Joly de Fleury étant entré* (M.xxiv.467-68) where he mocks the parlement's unreasonable opposition to inoculation: 'Nous espérons que vous ordonnerez peine de mort (que les Facultés de médecine ont ordonnée quelquefois dans de moindres cas) contre les enfants de nos princes, inoculés sans votre permission, et contre quiconque révoquera en doute votre sagesse et votre impartialité reconnues.'

<sup>47</sup> A fear expressed in D11037, D11038 and D11040. On the Calas case in general, see *Œuvres de 1762 (II)*, in *OCV*, vol.56B.



particular as no motives were given for the judgement.<sup>48</sup> But it was the judgement of the parlement of Paris in the case of the young chevalier de La Barre that outraged Voltaire entirely as it showed the terrible effects of false religious zeal inspiring judgements in a system of inhumane jurisprudence.<sup>49</sup> While there is no doubt that these cases fundamentally affected Voltaire's opinion of the parlements, they also brought to his attention the inadequate and potentially brutal nature of France's criminal justice system, something that was not entirely the fault of the sovereign courts.

The king receives perfunctory praise for his handling of the conflicts between the parlement and the clergy<sup>50</sup> and Voltaire is evidently delighted at his reassertion of royal authority during the *séance de la Flagellation* (D13206, D13207, D13208). In the early 1760s, Voltaire was well aware that the only policy that the *philosophes* could safely adopt was one in support of the monarchy. The attacks on the *philosophes* of the 1750s had taught him that.<sup>51</sup> He was, however, equally aware that

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<sup>48</sup> See D13326, D13327, D13345, D13347, D13369.

<sup>49</sup> See D13383, D13405, D13420, D13490, D13500, D13516, D13518, etc.

<sup>50</sup> Interestingly, this occurs in letters to Damilaville, an administrator of the *vingtième* based in Paris, of whom Voltaire routinely requested books and information: D11626, D11679, D13696. Voltaire may well have wished his correspondent to share news of this support with other Parisians, or have feared that his letters might be read by others. In D11626, Voltaire opens his letter informing Damilaville that two parcels which he had sent to Paris were intercepted, even though he believed he had found a safe way to transport them. His second paragraph can only be aimed at someone who would interfere with his post: 'Le roi paraît mêler à sa bonté des actions de fermeté: que d'un côté il cède à ce que les remontrances des parlements peuvent avoir de juste; de l'autre il maintient les droits de l'autorité royale. Je crois que la postérité rendra justice à cette conduite digne d'un roi et d'un père.'

<sup>51</sup> D9141 (13 August 1760): Voltaire instructs his fellow *philosophe* Helvétius, 'Le Roy doit sçavoir que les philosophes aiment sa personne et sa couronne, qu'ils ne formeront jamais de cabale contre lui, que le petit fils de Henry 4 leur est cher, et que les Damiens n'ont jamais écouté des discours affreux dans nos antichambres'.

the king would never appreciate this support, nor support him for that matter.<sup>52</sup> By the time Voltaire came to write the *Histoire du parlement de Paris*, he had realised that the problems with the laws in France extended beyond the jurisdiction of the parlement, that they were fundamental and called into question the very basis of authority in the kingdom. If Voltaire's *contes* could be said to sum up his views at the time of writing, we need only look to *L'Ingénu* (1767) to see Voltaire's broad criticism of the state of the law in France during the 1760s. The arbitrariness of the French justice system and the insensibility of the royal authorities faced with the sufferings of the ordinary subject lie at the heart of this highly critical work. Versailles is seen as a place of corruption (chapters 9 and 20). Arbitrary arrests (chapters 9, 15, 19) and imprisonment without judgement (chapters 9, 13, 14) are the norm. The venality of charges in the army – the practice was not confined to the parlements – is ridiculed (L'Ingénu exclaims, 'Moi! Que je donne de l'argent pour avoir repoussé les Anglais! Que je paye le droit de me faire tuer pour vous, pendant que vous donnez ici vos audiences tranquillement?'). Significantly, Voltaire is also critical of the abuse of *lettres de cachet* (chapters 9, 13, 14, 15, 18, 19, 20), a criticism of royal justice he shared with the parlements. The main protagonist, l'Ingénu, sums up Voltaire's point in chapter 14: 'Il n'y a donc point de lois dans ce pays! On condamne les hommes sans les entendre! Il n'en est pas ainsi en Angleterre.'

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<sup>52</sup> Voltaire admits this difficult position to Damilaville: 'Je sais fort bien que quand on s'avise de prendre le parti de l'autorité royale contre messieurs, messieurs vous brûlent; et le roi en ri' (D10875). Of his *Essai sur l'histoire générale*, Voltaire tells the D'Argentals 'Je n'ay écrit un seul mot qui puisse déplaire à la cour [...] Je sçais très bien que le Roy ne me soutiendra pas plus contre le parlement, que le président Déguille, mais je me soutiendrai très bien moy même' (D11283).

We have seen previously how Voltaire's letter to the enlightened *avocat général* of the parlement of Grenoble, Servan, in January 1768 expressed a similar concern about the arbitrariness of the laws in France: '[D]ans les premiers corps de l'état que de droits équivoques et que d'incertitudes! Les pairs sont ils admis dans le parlement, ou le parlement est il admis dans la cour des pairs? Le parlement est il substitué aux états généraux? Le Conseil d'état est-il en droit de faire des loix sans le parlement. Le parlement a t-il le droit d'interpréter les loix anciennes et reconnues?' These important historical questions that he would proceed to answer consistently against the parlement in his history of the court, were followed by a criticism of royal authority he would never address: '[En] France presque toutes les prérogatives sont ou usurpées ou contestées. On n'y jouit pas même des droits qu'on a reçus de la nature. Personne n'est parmi nous à l'abri d'une Lettre de cachet ou d'un jugement par commissaires' (D14668). The last sentence could well refer to the measures taken by the king throughout the 1760s to halt parliamentary opposition, particularly in the La Chalotais affair. The parlements had continually opposed these very measures as examples of despotism.<sup>53</sup>

It would be inaccurate, then, to say that Voltaire 'lost faith in the monarchy' between the start and the end of the 1760s, as to do so would imply both that he had a strong faith at the start of the decade and that something fundamentally changed

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<sup>53</sup> On 20 January 1766, a judicial commission was set up in Saint-Malo to try the six magistrates arrested in Brittany. The parlement of Paris, which had been slow to involve itself in the affair, reacted immediately with remonstrances against this commission (Flammermont, *Remonstrances*, ii.534-38). Angered by the unsatisfactory response, the magistrates appointed commissioners to draft an *arrêté*, which denounced in the strongest terms any actions taken by *ad hoc* judicial commissions (Flammermont, *Remonstrances*, ii.541). The king agreed to hear the parlement's grievances on 31 July, which included criticism of the issuing of letters patent - no less than ten sets - and the irregular administration of justice by commission (Flammermont, *Remonstrances*, ii.587-95). Magistrates had petitioned Louis XIV unsuccessfully for the abolition of *lettres de cachet*.

this by the end of it. There is no evidence to suggest either. We must not forget that both the *Précis du siècle de Louis XV* and the *Histoire du parlement de Paris* can be viewed as works written in support of the monarchy, the former written for the glory of the king's reign, the latter, an historical propaganda piece defending monarchical authority from the parlement's political pretensions. What then explains the difference in tone and approach when dealing with Louis XV? Certainly, the fact that the *Histoire du parlement* did not appear under Voltaire's name allowed him more freedom to be less subtle, but his reasons for writing it, namely, his increased interest in history in general, his fears over the increasing power and influence of the court, and his concern over the French justice system,<sup>54</sup> also affected his view of the monarch. His attitude towards Louis XV may not have changed entirely – his belief in monarchy as a superior system of government certainly did not – but his focus did, and anonymity allowed him to express this. If we consider this to be Voltaire's mindset as chancellor Maupeou disbands the parlement of Paris and replaces it with *conseils supérieurs*, reforming at the same time the administration of justice, can we really consider this support to be the paradigm case for Voltaire's support of enlightened/constitutional absolutism? Does this support for the monarchy represent 'the culmination of his life-long fight for the *thèse royale*' (p.309) as Peter Gay has suggested? I do not think so. Far from showing Voltaire's belief in absolutism, his support for Maupeou is his last hope for judicial reform and for that reason he shows more faith in it than perhaps he should have. In this faint and futile hope, historians

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<sup>54</sup> Voltaire's anxiety was obviously growing over the 1760s. We need only look at his works that appeared during this period. The *Traité sur la tolérance* (1763), following the Calas case; *André Destouches à Siam*; the *Relation de la mort du chevalier de la Barre* and his *Commentaire* on Beccaria's *Dei delitti e delle pene* (all 1766).

have read a political programme coming to fruition. Such an interpretation fails to take into account the circumstances surrounding Maupeou's revolution and Voltaire's personal circumstances, both of which are essential for a proper understanding of his support for the then recently appointed chancellor.



## CHAPTER 6

### Voltaire and the Maupeou Revolution

I suggested in the previous chapter that Voltaire's embracing of Maupeou's reforms of the sovereign courts in 1771 does not necessarily represent, as suggested by nearly all those who have addressed the issue,<sup>1</sup> his doctrinal approval of absolutism in France. The reason, perhaps, for interpreting Voltaire's motives in this way, corresponds to a belief among certain historians that Maupeou's revolution actually represented, both in fact and in Voltaire's eyes, the kind of enlightened despotism the *philosophe* is said to have approved of elsewhere in Europe. The fact that Voltaire was alone among the *philosophes* in his support of Maupeou is almost seen as proof of the soundness of his judgement.<sup>2</sup> His supposed prescience in foreseeing the need

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<sup>1</sup> Peter Gay, *Voltaire's Politics*, p.326; Durand Echeverria, *The Maupeou Revolution: A study in the history of libertarianism, France 1770-1774* (Baton Rouge, 1985), p.157-60; Quastana, *Voltaire et l'Absolutisme éclairé*, p.194 -201; René Pomeau, *VST*, vol. 5, *On a voulu l'enterrer* (Oxford: Voltaire Foundation, 1994): Pomeau does not put it so bluntly, but uses the situation to refute accusations that Voltaire's achievement was to undermine the monarchy. Those who accuse him thus 'oublient le parti qu'il prit devant la tentative faite par Louis XV, en 1771, pour restaurer l'autorité royale' (p.21).

<sup>2</sup> None of the other *philosophes*, according to Gay, had Voltaire's 'political sagacity', 'none of them saw as clearly as Voltaire that Maupeou's program was the best, perhaps the only, hope for saving the country from revolution' (p.323).

to nip aristocratic pretensions in the bud lends weight to orthodox interpretations of the *ancien régime*, which see the Maupeou revolution as a necessary step against recalcitrant magistrates, a necessary remedy against the potential for an even greater Revolution and a reassertion of the monarchy's prerogative.<sup>3</sup> The first reason for questioning this reaction to Voltaire's support of Maupeou's reforms is that the most comprehensive scholarship to date on the coup suggests that it was not an example of enlightened despotism, or enlightened absolutism to use a more neutral term. This chapter will examine the recent scholarship on Maupeou's revolution, the extent of Maupeou's reform of the parlements and Voltaire's strategic reaction to these changes, all with a view to a better understanding of Voltaire's politics.

### ***The Maupeou Revolution: The Historians' View***

In April 1771 chancellor Maupeou introduced radical changes to the way in which sovereign justice would be administered in France. The magistrates of the parlement of Paris, in exile since early January, would be stripped of their posts; the sprawling jurisdiction for which they had formerly acted as the last court of appeal would be divided into six distinct jurisdictions bringing justice closer to litigants in the provinces. It has been noted that those historians who have approved of the changes introduced by Maupeou refer to them as 'reforms', while others, seeing in these changes an example of the despotism of Louis XV's reign, refer to the situation

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<sup>3</sup> Michel Antoine, *Louis XV*, p.910, 920-22; Alfred Cobban, 'The parlements of France in the eighteenth century', *History* 35 (1950), 64-80; Gay, *Voltaire's Politics*: Maupeou's revolution 'was largely a defensive measure, a revolution designed to stave off a revolution' (p.328); Lucien Laugier, *Un ministère réformateur sous Louis XV: le triumvirat, 1770-1774* (Paris: La Pensée Universelle, 1975) p.69-72; Zysberg, *La Monarchie des Lumières*, p.306.

as a *coup d'état*.<sup>4</sup> I shall use both terms without prejudice to any particular interpretation, but I believe that Maupeou's intervention must first be regarded as a real revolution, both in the changes it introduced and in its effects on the political life of the *ancien régime*. In *Lawyers and Citizens, The making of a Political Elite in Old Regime France* (New York and Oxford: Oxford University Press, 1994), David Bell makes clear this fundamental change in the lives of lawyers – who would play such an important part in revolutionary assemblies – showing how the reforms allowed them to 'draw on the full range of ideas, motifs, and vocabulary popularized by the philosophes' (p.202). Others, too, have noted the change it effected in the political culture of the *ancien régime*. Doyle called it 'a momentous turning point' because 'it was now clear to everybody that subjects of the French king had no rights, and no institutions, that the monarch was not able, and prepared, to violate'.<sup>5</sup>

Martin Mansergh's interpretation – the most recent and most comprehensive English-language analysis - suggests that Maupeou's attitude to reform when he became chancellor in September 1768 was neither enlightened nor revolutionary.<sup>6</sup> In fact, his first measures as chancellor continued a ministerial policy of appeasement which had been characteristic of the crown's response to the courts in the 1760s.<sup>7</sup> In

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<sup>4</sup> See David Bell, 'Lawyers into demagogues: Chancellor Maupeou and the transformation of legal practice in France, 1771-1789', *Past and Present*, 130 (1991), 107-141 (p.108).

<sup>5</sup> William Doyle, 'The Parlements', in ed. K.M. Baker, *The French Revolution and the Creation of a Modern Political Culture*, vol.1, *The Political Culture of the Old Régime* (Oxford: Pergamon Press, 1987) p.164. See also Echeverria, *The Maupeou Revolution* and Keith Michael Baker's introduction to an issue of *Historical Reflections/Réflexions historiques* (18 (1992), p.2-3) dedicated to issues surrounding Maupeou's reforms.

<sup>6</sup> Martin Mansergh, 'The Revolution of 1771 or the Exile of the Parlement of Paris', unpublished D.Phil. thesis (University of Oxford, 1973). Mansergh asserts that 'Maupeou claimed no advance intention with regard to the major reforms carried out in 1771[...] He would, however, have liked to abolish the seigniorial courts' (p.136). He was 'mildly interested in the legal reform, in the codification of law and in the standardization of legal practice' (p.137).

<sup>7</sup> Swann, *Politics and the Parlement of Paris*. See Chapter 7, 'Choiseul and the politics of appeasement', p.193-217.

all but one of its conflicts with the provincial parlements throughout the decade the crown had backed down in the face of protests from the magistrates.<sup>8</sup> One of Maupeou's first achievements was to bring peace to the parlement of Toulouse which had refused to sit with its *premier président* François de Bastard since 1764. Maupeou made Bastard a *conseiller d'état* and replaced him with Drouyn de Vandeuil.<sup>9</sup> The new chancellor also secured the return of the parlement of Rennes which had been replaced by the docile *baillage d'Aiguillon* – so dubbed in antipathy by the Bretons in reference to its meagre status and pliant loyalty to the governor of the province – because of its obstreperous protests at the fate of the *procureur-général* La Chalotais and five other magistrates of Brittany's premier law court. On gaining France's highest judicial office, Maupeou is shown to be intent on pleasing the parlement.<sup>10</sup> The edict of discipline (November 1770), which acted as a catalyst for the reforms Maupeou would introduce, was expected to cow the magistrates and provoke protestations of loyalty from them, but, we are told, 'the edict backfired, and in the process it brought into question things which had hitherto been regarded as beyond debate.'<sup>11</sup> William Doyle had previously rejected the suggestion by defenders of the administrative monarchy that Maupeou was a single-minded and clear-sighted

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<sup>8</sup> The end of the Besançon affair (1760-1) saw the victorious return of thirteen exiled magistrates who had opposed the local intendant and *premier président* of the parlement of Besançon, Bourgeois de Boynes and his fiscal edicts. He was forced to resign. The fiscal laws of April 1763 produced further trouble in the provinces. At Toulouse, the *lieutenant général*, duc de Fitz-James and *premier président*, Bastard, were forced out of the province. The parlement of Grenoble decreed the arrest of *lieutenant général* Dumesnil, forcing the king to recall him. Only the misdemeanours of the parlement of Pau – because it was small and bereft of influence – were fully resisted by royal authority. This court was reconstituted with loyal magistrates in 1765.

<sup>9</sup> Mansergh, 'The Revolution of 1771', p.142.

<sup>10</sup> Mansergh, 'The Revolution of 1771', p.143-46

<sup>11</sup> Mansergh, 'The Revolution of 1771', p.419.

reformer,<sup>12</sup> a point conceded by David Hudson, who still believed, however, that by 1774 the ideological battle between the crown and the parlement had been won by the former.<sup>13</sup> The idea that the late eighteenth century was dominated by a clash of ideologies or competing 'discourses'<sup>14</sup> is evident in Durand Echeverria's examination of the political pamphlets that emerged during and after Maupeou's revolution. In his view, the years 1771-74 provided a real political education for the French and made independent-minded people 'aware of the inadequacies of the alternatives the nation was offered, an absolute monarchy or a monarchy subservient to a free-wheeling aristocratic parlement.'<sup>15</sup> Echeverria tries to steer a course between Doyle's scepticism of Maupeou's *realpolitik*, and the traditional view exemplified by Alfred Cobban, that the reforms were a real, and indeed necessary, assertion of royal authority designed to crush *parlementaire* opposition and pave the way for reform.<sup>16</sup> The 'experiment in absolutism' is deemed to have failed 'because such a constitution was not viable in the face of the determined opposition of the nobility and the wealthy bourgeoisie and in the absence of active support from any other group except the church.'<sup>17</sup> As part of a general study on judicial reform in

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<sup>12</sup> William Doyle, 'The parlements of France and the breakdown of the old regime, 1771-1788, *FHS* 6 (1970), 415-58.

<sup>13</sup> David Hudson, 'In defense of reform: French government propaganda during the Maupeou crisis', *FHS* 8 (1973), 51-76.

<sup>14</sup> The most influential work being Keith M. Baker's *Inventing the French Revolution. Essays on the French Political Culture of the XVIII<sup>th</sup> Century* (Cambridge and New York: Cambridge University Press, 1990). Baker called for the identification of 'a field of political discourse, a set of linguistic patterns and relationships that defined possible actions and utterances and gave them meaning' (p.24). He locates three strands of discourse: a judicial discourse emphasising Justice, a political discourse emphasising Will, and an administrative discourse emphasising Reason. According to Baker, 'these three competing vocabularies structure the language of opposition to monarchical authority' (p.25).

<sup>15</sup> Durand Echeverria, *The Maupeou Revolution*, p.x.

<sup>16</sup> Cobban, 'The parlements of France', p.75-76; Alfred Cobban, *A History of Modern France*, vol.1, *The Old Regime and the Revolution 1715-1799* (London: Jonathan Cape, 1962), p.96-98.

<sup>17</sup> Echeverria, *The Maupeou Revolution*, p.34.



eighteenth-century France, John A. Carey sees Maupeou's judicial revolution as 'the most confused attempt at reform during the Old Regime', as its results 'blocked further reform before the Revolution while making reform more necessary than ever and stimulating increasing concern about it.'<sup>18</sup> The idea of 'judicial discourse' is less important for Julian Swann, who is keen to show in the most recent analysis of the coup Maupeou, 'the absence of a clear ideological motive in the judicial and administrative life of eighteenth-century France' (p.365). He makes it clear that by 1770, the parlement of Paris had not become so rebellious and uncontrollable that reform was needed (p.311-12). The exile of the parlement of Paris in early 1771 and the unplanned reforms that followed were 'the result of a crisis which had evolved out of the Brittany affair and the ministerial and factional intrigue at Versailles' (p.351). Swann persuasively takes the focus of eighteenth-century political life away from the clash of two monolithic ideologies or 'discourses' and examines instead the political dynamic that allowed entrenched positions to be taken up by individuals and groups, and the ease with which certain others could cross the front when circumstances necessitated such a move.<sup>19</sup> We must not forget that Voltaire, while seemingly far from the capital's political scene in his exile at Ferney, was nonetheless affected by the vicissitudes of political life at Versailles and Paris. If Maupeou's reforms do not simply represent the blossoming of absolutism under Louis XV, what did Voltaire believe they represented, and what prompted him to

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<sup>18</sup> John A. Carey, *Judicial Reform in France before the Revolution of 1789* (Cambridge, Mass. and London: Harvard University Press, 1981), p.6.

<sup>19</sup> He gives the example of Malesherbes, *premier président* of the *cour des aides* and celebrated as representing an enlightened 'judicial discourse'. Swann notes that he was 'equally capable of helping Bourgeois de Boynes write pamphlets sustaining his position, and that of the government, during the Besançon affair' (p.365).

support them and join a battle for public opinion that was not necessarily his own? Rather than relying on the imposition of a political ideology on Voltaire's thought to answer these questions, I shall look at the context of his support and the practical reasons for it. I shall also examine how Voltaire explains this support in his correspondence. However, before turning to these issues, it is necessary to establish the reasons for, and results of, Maupeou's revolution.

### ***The Origins of the Maupeou Revolution***

Swann's concise explanation of the causes of Maupeou's reforms, quoted above, indicates that the origin of the so-called 'réaction absolutiste' was far from the planned, rational and enlightened project that its defenders suggest. As has been stated, Maupeou, who became chancellor in September 1768, began with a continuation of Choiseul's policy towards the parlements, perhaps because Choiseul had been in favour of his promotion to the position.<sup>20</sup> His success in securing the return of the parlement of Rennes was, however, marred by the fact that only four of the six Breton magistrates who had been arrested were reinstated with their returning colleagues. La Chalotais *père* and *fils* remained in exile, ensuring that the returning magistrates still had a rallying point and a clear object of vilification in the duc d'Aiguillon. On 3 March 1770, the re-established parlement of Rennes opened criminal proceedings against the duc d'Aiguillon, accusing him of the subornation of

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<sup>20</sup> Mansergh, 'The Revolution of 1771', p.122. It seems that Choiseul wanted him to be appointed as chancellor as he knew how to handle the *parlementaires*. Maupeou had been *premier président* of the parlement of Paris from 1763 until his appointment. Swann also sees Maupeou's initial accommodating stance as being explicated by the influence of Choiseul (*Politics and the parlement of Paris*, p.321).

witnesses in the 1766 trial of La Chalotais and his colleagues. D'Aiguillon turned to the *cour des pairs*, sitting in the parlement of Paris, to clear his name. On 4 April 1770, the trial began with the purpose of determining 'si un pouvoir qui avait été donné pour la félicité des peuples est devenu l'instrument de leur malheur, si la confinance du Souverain a été trahie ou calomniée.'<sup>21</sup> Others must surely have felt that the king's authority was itself on trial.<sup>22</sup> A direct result of the trial was the edict of discipline of December 1770, which aimed to curb certain powers of the parlement.<sup>23</sup> Mansergh rejects the notion that the parlements had forced a crisis because of their opposition to royal authority: '[I]t was not the parlement who had created the constitutional crisis, it was the edict and the determination of its authors to secure recognition of its principles' (p.421). In order to find the reasons for this change of policy regarding the sovereign courts, we must examine the changing politics at the court of Louis XV.

The end of the 1760s saw a conflict at the royal court between the supporters of Choiseul and the *parti dévot*. The comte de Stainville, who became duc de Choiseul on his appointment to the ministry in 1758 – thanks in no small part to Mme de Pompadour's attachment to him – had become the central figure in Louis XV's government after 1761. His tendency to appease the parlements, particularly in their attack on the Jesuits, attracted the enmity of the *parti dévot*. The death of the king's mistress - Choiseul's patroness – in 1764, opened up the possibility of a

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<sup>21</sup> Flammermont, *Remontrances*, iii.112. The words are those of chancellor Maupeou.

<sup>22</sup> According to d'Aiguillon's lawyer, Linguet, 'Le Roi s'apercevait, à n'en pouvoir douter, que ces mystères d'Etat vont devenir le véritable sujet de l'information; que M. le duc d'Aiguillon ne servira plus que de prétexte; que sous l'apparence de son procès, ce sera vraiment celui du Ministère et du Gouvernement que l'on instruira.' Cited in Egret, *Louis XV et l'opposition parlementaire*, p.176.

<sup>23</sup> Flammermont, *Remontrances*, iii.158-85. While the edict was prepared and presented to the magistrates in November, it was not registered in parlement until the *lit de justice* of 7 December.

challenge to the dominance of Choiseul and his *parti*; the race was on between both camps to find a suitable lady to replace Pompadour, and thus guarantee a direct channel of communication to the king's ear. It is said that Choiseul even attempted to introduce his sister, the duchesse de Gramont, but her resemblance to her porcine sibling did not catch the king's eye.<sup>24</sup> Choiseul's enemy, the duc de Richelieu, gained the upper hand by introducing Mme du Barry to Louis XV in the spring of 1768. Unlike Pompadour, this latest mistress had little interest in exercising political power of her own and was therefore the perfect conduit through which Richelieu and his nephew, the duc d'Aiguillon, could exert influence on the crown. In a fitting contradiction, symptomatic of eighteenth-century French politics, this former *fille* became a leading lobbyist for the *parti dévot* in their attempts to dethrone Choiseul. While Maupeou may well have adopted Choiseul's policy towards the parlements in recognition of this minister's support for his appointment, his interests were soon to conflict with those of the minister. Maupeou secured his choice of *contrôleur général* in the abbé Terray, who had helped the chancellor oust the former incumbent, Maynon d'Invault - Choiseul's protégé - in December 1769. Invoking the need for financial rigour, and taking drastic steps to implement it, including the declaration of a partial bankruptcy,<sup>25</sup> Terray was destined to clash with Choiseul over the massive spending on the army and the Navy, for which the latter was responsible. Choiseul's belligerence in international affairs, urging a confrontation between Spain and England over the Falkland Islands in order to exact revenge on the English after the

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<sup>24</sup> Swann, *Politics and the parlement of Paris*, p.317

<sup>25</sup> See J.F. Bosher, 'The French crisis of 1770', *History* 57 (1972), 17-30. See also, Flammermont, *Remontrances*, iii.ix-xi.

humiliating Seven Years' War, could only add to this clash. Terray knew that France could not afford such a conflict. More importantly, Louis XV also favoured peace, as he told the king of Spain, Charles III on 21 December 1770:

Mes ministres ne sont que mes organes, ainsi, quand je me crois obligé d'en changer, il n'est pas à craindre que cet événement puisse déranger en rien nos affaires et, tant que j'existerai, Votre Majesté peut compter sur moi comme pour Elle. Avec cela, si Votre Majesté peut faire quelque sacrifice pour conserver la paix sans blesser son honneur, Elle rendra un grand service au genre humain, et à moi en particulier en ce moment ci.<sup>26</sup>

Therefore, by December 1770, Choiseul had become isolated. Maupeou, keen to avoid similar isolation and, like Terray, against the prospects of war, found himself on the side of the duc d'Aiguillon. This tactical alliance had been strengthened by the situation that followed d'Aiguillon's appearance before the parlement of Paris in April 1770.<sup>27</sup>

The trial opened on 4 April 1770 and within a few days the parlement of Paris had established that a provincial parlement had no jurisdiction to try a peer of the realm. On 22 June, the *gens du roi* announced that the *cour des pairs* would assemble five days later. The *lit de justice* held on this day was designed to exonerate d'Aiguillon and put an end to the affair,<sup>28</sup> but as the magistrates had indicated in an

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<sup>26</sup> Cited in Antoine, *Louis XV*, p.923-24.

<sup>27</sup> The alliance was purely tactical, as Maupeou's ministerial ambitions – according to William Doyle – necessitated the fall of both Choiseul and d'Aiguillon. See Doyle, 'The parlements of France', p.419-20. Ministerial ambition was also noted by the British ambassador, Lord Weymouth, on 16 December 1770, as being at the heart of the conflict: 'The struggle between the king and his parlement at this conjuncture may be considered as a contest for the ascendancy in the cabinet without which things might not have been carried to such lengths'. Cited in Jules Flammarion, *Le Chancelier Maupeou et les parlements* (Paris: A. Picard, 1883) p.151.

<sup>28</sup> Flammarion, *Remonstrances*, iii.119-25



*arrêt* of 10 May, ‘L’honneur ne se rétablit point par voie d’autorité.’<sup>29</sup> The parlement of Paris refused to accept the king’s verdict and on 2 July they voted to produce representations.<sup>30</sup> At this assembly, they also adopted an *arrêt* excluding d’Aiguillon from the rights of the peerage, as he had not been found innocent of the charges against him; this parliamentary *arrêt* was quashed the following day by *arrêt du conseil*. Maupeou, who could no longer rely on the support of Choiseul, was now forced to support the position of d’Aiguillon against the *parlementaires*, who had no intention of backing down over the issue. The continued resistance of the parlement of Paris in the form of representations and remonstrances followed a familiar pattern, resulting in the crown’s attempt to silence the court at the unexpected *Séance Royale* of 3 September 1770.<sup>31</sup> Like a faint echo of the *séance de la flagellation* of 1766, the chancellor voiced the king’s words of displeasure, censure and admonition to his parlement, which responded to this latest rebuke as it had to the previous one. No drastic action was taken; decisions on a response were postponed until after the judicial vacation. In the interval, an edict of discipline was prepared by the abbé Terray (whose familiarity with the writing of judicial remonstrances must have helped him to tailor his reprimand) and was presented to the court on its return.<sup>32</sup> The edict was concise: it reminded the magistrates that ‘ils ne tiennent que des rois leur existence et leur pouvoir’; it denounced the theory of the *union des classes*; it reminded the court that its duty was to apply and not interpret laws; it criticised the

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<sup>29</sup> Flammermont, *Remonstrances*, iii.118

<sup>30</sup> Flammermont, *Remonstrances*, iii.125-38.

<sup>31</sup> Flammermont, *Remonstrances*, iii.153-58.

<sup>32</sup> According to Lebrun, he had located specific limits that should be imposed on the parlement of Paris, but his draft edict was found to be too weak; Terray produced another, which was deemed satisfactory. Charles-François Lebrun, *Opinions, rapports et choix d’écrits politiques de Charles-François Lebrun* (Paris: Bossange, 1829), p.34.

court's frequent judicial strikes; it reminded the magistrates that the parlement was the organ of the king's sovereign will and nothing more. The preamble suggested that the magistrates had been influenced by the 'esprit de système': 'nous les avons vu enfanter successivement de nouvelles idées et hasarder des principes que, dans tout autre temps et dans tout autre corps, [ils] auraient proscrits comme capables de troubler l'ordre public.'<sup>33</sup> The parlement produced two protests against the edict in as many days forcing Maupeou to secure its registration by the more authoritarian means of a *lit de justice* on 7 December.<sup>34</sup> The magistrates' response was to adopt on 10 December a protest requesting a restoration of 'son honneur et la constitution de l'Etat que l'édit a attaquée'<sup>35</sup> and remained assembled: the magistrates were once again on strike. As the king would not countenance any petitions from the parlement while they remained on strike, and even the most loyal and conservative magistrates found the edict to be an affront to the honour of their offices,<sup>36</sup> compromise seemed to be the only, if unlikely, possibility.

The exile of Choiseul on Christmas Eve 1770, after a campaign by his enemies to convince the king that he was contributing to the parlement's intractability, may appear to be the kind of decisive move - so praised by latter day supporters of Maupeou's reforms - that characterised the resurgent absolutist élan of the end of Louis XV's reign. In fact, it provided another opportunity for compromise to be reached, and one was cobbled together by Terray and the prince de Condé (who

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<sup>33</sup> The edict is reproduced in Flammermont, *Le Chancelier Maupeou et les parlements*, p.116-20.

<sup>34</sup> Flammermont, *Remontrances*, iii.159-85.

<sup>35</sup> Flammermont, *Remontrances*, iii.170.

<sup>36</sup> Even the normally loyal Pasquier was prepared to 'descend into the grave' rather than accept the edict. Cited in Swann, *Politics and the Parlement of Paris*, p.340. According to their protest of 10 December, in the preamble of the edict 'tous les membres de la magistrature sont présentés comme des criminels envers l'Etat et la personne du Roi' (Flammermont, *Remontrances*, iii.170).

was a supporter of parliamentary pretensions and a protector of the Jansenist lawyer Louis-Adrien Le Paige). According to Charles-François Lebrun, secretary to Maupeou, the edict of December was never intended as an absolutist break with the past. He explained in his memoirs that:

On ne se flattait pas qu'un tel édit passât sans opposition; il y aurait certainement une résistance et une résistance opiniâtre [...] On se flattait encore que, pour se dérober à l'édit, on reconnaîtrait solennellement les principes, qu'on en ferait une profession formelle, et qu'alors l'autorité, désarmée par cet aveu public, pourrait avec honneur retirer un édit devenu inutile, par une reconnaissance volontaire du parlement.<sup>37</sup>

That the parlement had agreed to call off its strike by 7 January 1771 shows that the possibility of compromise was real.<sup>38</sup> The king's response and the manner in which the parlement reciprocated saw the buffer zone of compromise recede into a battle line.<sup>39</sup> The edict would stand. The king may well have been unaware of what had been decided in his name;<sup>40</sup> Maupeou was aware, but willing to carry it through only inasmuch as his political future depended on appeasing the now dominant *dévots* headed by d'Aiguillon, for whom a humbled magistrature was essential for the removal of the stain on his honour and his promotion to ministerial office.<sup>41</sup> After the failure of Terray's compromise the *parlementaires* renewed their strike on 13 January. Three sets of decisive *lettres de jussion* followed but were ignored by the

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<sup>37</sup> Lebrun, *Opinions, rapports et choix d'écrits politiques*, p.34-35.

<sup>38</sup> Flammermont, *Remontrances*, iii.173-4. According to Flammermont, with Choiseul out of the picture, Maupeou was prepared for some form of reconciliation: 'Sur les conseils du prince de Condé qui avait besoin du parlement, il [Maupeou] résolut de calmer l'amour-propre des magistrats et de leur fournir une occasion de reprendre décemment l'exercice de leurs fonctions judiciaires' (iii.173).

<sup>39</sup> Flammermont, *Remontrances*, iii.175-7.

<sup>40</sup> Swann suggests that Louis XV may not have even approved of the plan (*Politics and the Parlement of Paris*, p.346).

<sup>41</sup> Flammermont, *Remontrances*, iii.126-7. On 2 July 1770, in the *arrêt* excluding d'Aiguillon from his rights as a peer, the parlement asserted that the suspicions and facts against him 'entachent son honneur'. D'Aiguillon was named to the ministry of foreign affairs in June 1771.

parlement forcing the king to act in an even more decisive manner. On the night of 19-20 January, the king sent his musketeers into the homes of the magistrates where they were roused and asked if they were willing to resume their duties or not. Those who replied in the negative were sent *lettres de cachet* the following night exiling them to various towns around the kingdom and, more importantly, confiscating their offices. Their colleagues who had replied 'Yes' and whom Maupeou hoped would form a rump parlement of Paris, swiftly reneged on their previous agreement as the chambers assembled on 20 January in heady defiance; they consequently met the same fate.<sup>42</sup>

### ***Voltaire during the 'Pre-Revolution'***

Voltaire's reaction to this refusal by the parlement of Paris to obey is just what we would expect from the author of the *Histoire du parlement de Paris* and a witness, over the previous decade, of the blood-lust that, he claimed, characterised the French criminal justice system: 'Les meurtriers du chevalier de la Barre ont donc pleuré. Quoi! Les bœufs-tigres pleurent!' he exclaims to D'Alembert (D16869). However, his attitude to the results of the parlement's strike is similar to that of the 1750s.<sup>43</sup> While the magistrates refused to judge, half of France was without bread.

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<sup>42</sup> Jacob-Nicolas Moreau, *Mes souvenirs*, 2 vols (Paris: Plon, 1901), i.245. Moreau was the chief royal propagandist with a brief to undermine the parlements' recently acquired notions of their political role (See Baker, *Inventing the French Revolution*, p.59-85). On Maupeou he wrote, 'il se crut assuré, pendant le mois de janvier et celui de février, de conserver une partie des anciens membres du Parlement. Lorsqu'il dut renoncer à cette espérance, il avait tiré l'épée, il jeta le fourreau et il détruisit la Cour des Aides et le Grand Conseil.'

<sup>43</sup> We must remember that Voltaire's letters to D'Alembert show him, in general, at his most anti-*parlementaire*, as his correspondent held this view more passionately than Voltaire. Voltaire to D'Alembert: D15676, D16854, D16869, D16998, D17054; D'Alembert to Voltaire: D10398, D12423, D15955.

Since the writing of his parliamentary history, Voltaire still concerned himself with the affairs of the sovereign courts; the case of Sirven was ongoing as were new initiatives to rehabilitate Lally. Another case of questionable justice came to his attention in the conviction of the peasant Martin (more detail of which will be given later) at the *Tournelle* of the parlement of Paris, while closer to Ferney, Voltaire was trying to help the serfs of Saint Claude to be freed from the feudal servitude in which the local monks had kept them, by some archaic judicial anomaly. Voltaire's work in his local community had not relaxed either; he had established a colony of Genevan watchmakers at Ferney and had supported the ambitious project to establish a port at Versoix on the edge of Lac Léman, to rival the Swiss republic. These moves were representative of 'une politique générale de Voltaire, se posant en protecteur du pays de Gex auprès du pouvoir' and also showed, perhaps, his realisation that a return to Paris would never happen.<sup>44</sup> This policy of isolated attachment to central power was the only option open to Voltaire, who could not give up writing – a precondition for his possible return to the capital<sup>45</sup> – and who needed desperately to maintain influential contacts with those in positions of power, in order to guarantee success in his literary, humanitarian and business activities.

Echeverria has noted, as a justification for Voltaire's support of Maupeou, that the *philosophe* had connections with the chancellor's family since 1717 and that his father had, as vice-chancellor in 1767, helped to extricate Voltaire from a book

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<sup>44</sup> Pomeau, «*Ecrasez l'Infâme*», p.408-09 (p.409). Since Mme Denis had returned to Ferney in October 1769, it was clear that Voltaire's exile would continue indefinitely.

<sup>45</sup> D15507, Mme Denis to Voltaire (8 March 1769).



smuggling controversy.<sup>46</sup> Lest we be under any illusions as to the importance of Voltaire's previous attachment to this famous family of the *noblesse de robe*, we should remember that being close to the influential was of most importance to him and that within two months of the appointment of Maupeou *fils* to the post of chancellor, Voltaire had sent a fine leather-bound and gold-decorated copy of the *Précis du siècle de Louis XV* to the former *premier président*<sup>47</sup> who had presided over the confirmation of the sentence against the chevalier de la Barre, which had so shocked the *philosophe*.<sup>48</sup> Possibly on the strength of the word of Mme Denis, Voltaire was prepared to believe, and express this belief to D'Alembert, that the *philosophes* were lucky to have the new chancellor: 'Nous avons heureusement un chancelier plein d'esprit, de raison et d'indulgence; c'est un trésor que dieu nous a envoyé dans nos malheurs.'<sup>49</sup> However, as he told D'Alembert, he would prefer to see Maupeou, who as chancellor had responsibility for the *librairie*, leave censorship up to Marin.<sup>50</sup> In the same letter, Voltaire suggests that Marin could be a possible candidate for the *Académie française*, a case he would continue to make in vain.<sup>51</sup> In

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<sup>46</sup> Echeverria, *The Maupeou Revolution*, p. 149. He states that '[t]his shift in political alliance from Choiseul to Maupeou was not really the volte-face that it appeared'. It should be noted, however, that Voltaire's alliances were rarely 'political' in the strict sense of the term. For example, while Voltaire was protected by Choiseul at Versailles, he continued to rely on his contacts with this minister's enemy, the duc de Richelieu.

<sup>47</sup> D15280, Voltaire to Charles Joseph Panckoucke ([October or November] 1768).

<sup>48</sup> Voltaire would learn of the extent of Maupeou's involvement later (See D19373, D19424) but he must have at least suspected the *premier président* at the time of La Barre's sentencing as Maupeou sat in the *grand'chambre*, which confirmed the sentence of the court in Abbeville.

<sup>49</sup> D15676, Voltaire to D'Alembert (4 June [1769]); Mme Denis had written to Voltaire on 8 March 1769 (D15507) reporting that the new chancellor was keeping the *secrétaire général de la librairie*, François Louis Claude Marin (1721-1809), quite busy. She suggested that it might be advantageous if the chancellor took personal responsibility for *la librairie*: 'Le chancelier a de l'esprit, n'a plus rien à prétendre, peut être mènerait la barque plus légèrement.'

<sup>50</sup> Marin and Sartine, *lieutenant de police*, had responsibility for the book trade since the fall of Malesherbes with his father, chancellor Lamoignon, in 1763.

<sup>51</sup> D16815, Voltaire to D'Alembert (10 December 1770); D16881, Voltaire to Marmontel (31 December 1770). Marin was a useful friend to Voltaire as his position allowed him to guarantee the safe transport of some of Voltaire's more dangerous mail (D16942, D17527). He also helped the

spite of Voltaire's hopes for Maupeou, his instinct to rely on the *secrétaire général de la librairie* was correct, for the moment at least.<sup>52</sup> As Marin informed Suard (of the *Gazette de France*), there had been a clampdown on the *librairie* since Maupeou's appointment: 'J'aime M de Voltaire plus que personne, mais il faut prendre des mesures pour ne pas se faire des affaires pour lui. On est aujourd'hui si difficile qu'on ne sait plus sur quoi compter.'<sup>53</sup>

As is to be expected, the injustices against Calas, Lally and La Barre present a continuous motif in Voltaire's correspondence and these tragedies are brought to mind regularly. The enlightened lawyer, Christin, first informed Voltaire of the possibility that another unwarranted execution had been decreed by the parlement of Paris. A farmer named Martin had supposedly been accused of killing a man on a local highway. The only evidence against him was that his boot print matched one found near the murder scene, and that when the only witness to the crime failed to identify him as the assailant, he exclaimed 'Dieu soit béni! En voilà un qui ne m'a pas reconnu.'<sup>54</sup> Like Jean Calas, Martin proclaimed his innocence until he was broken on the wheel. After his execution, another man who had been condemned to death admitted that he had committed the crime. At first, Voltaire was unable to establish the verity of this miscarriage of justice, requesting both D'Alembert and his nephew Dompierre d'Hornoy, a magistrate at the parlement of Paris, to corroborate

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*philosophe* to frustrate his enemies, such as Palissot (D16418) and Fréron (D16537), and facilitated the distribution of the *Questions sur l'Encyclopédie* in France (D16829).

<sup>52</sup> Marin would later let Voltaire down by passing an unofficial edition of *Les Lois de Minos* to the Parisian publisher Valade. This Valade edition would cause Voltaire much trouble as he still held out the hope that *Minos* would secure him the freedom to visit Paris. See *Les Lois de Minos*, ed. Simon Davies, in *OCV*, vol.73, p.34, 38.

<sup>53</sup> D16203, Marin to Jean Baptiste Antoine Suard (6 March 1770).

<sup>54</sup> Pomeau, «Ecrasez l'Infâme», p.418.

it.<sup>55</sup> Finally it was found that the *Tournelle* of the parlement of Paris had indeed confirmed the sentence, pronounced on such flimsy evidence by the *baillage* of La Marche. Another judicial murder, another example of French barbarity, as he told his nephew: 'Mon cher ami, voilà trop d'horreurs coup sur coup. La jurisprudence en France est en vérité trop incertaine et trop barbare. Les autres nations nous traitent de frivoles, mais à juger par les faits il n'y a point de nation plus cruelle que la nôtre.'<sup>56</sup> Interestingly, Voltaire continued, suggesting that the fault did not necessarily lie with the magistrates personally (and not just because he was addressing a magistrate). He told d'Hornoy that 'Si j'avais de l'argent comptant je vous achèterais tout à l'heure une charge de maître de requêtes, afin que vous ne fussiez plus exposer [sic] à tremper vos mains dans le sang des hommes.' Voltaire's message is clear: simple association with the French justice system ensures inevitably that one shares responsibility for its faults. As long as the system remained so gothic, all would be tarnished by it. Logically, a reform could remove this stain on the French nation, but the possibility of achieving the necessary reforms in the France of 1769 was not likely. As Voltaire informed Michel Paul Gui de Chabanon two days previously, those who promote tolerance might succeed in fifty or sixty years. In Paris 'on va à l'opéra comique le jour qu'on brûle le chevalier de la Barre, et qu'on coupe la tête à Lally.' Parisians 'ne sav[ent] que danser autour des cadavres de [leurs] frères.'<sup>57</sup>

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<sup>55</sup> Pomeau, «*Ecrasez l'Infâme*», p.419.

<sup>56</sup> D15808, Voltaire to Dompierre d'Hornoy (9 August 1769).

<sup>57</sup> D15803, Voltaire to Michel Paul Gui de Chabanon (7 August 1769).

Given this depressing summary, Voltaire was surprisingly hopeful that the case of Sirven would be successful before the parlement of Toulouse.<sup>58</sup> While the defender of La Barre and Lally could never forgive the *grand'chambriers*<sup>59</sup> (unless they attained a position of influence which allowed Voltaire's enmity to yield before the potential utility of a friend in a high place) he was content that the younger *parlementaires* were more enlightened in their attitudes (D15907). In March 1768, the case of the Sirven family had come before the *conseil du roi*, where their demands had been found inadmissible, an unsuccessful result that forced them to return to the court of first instance in order to appeal. Sirven returned to custody at the *tribunal* of Mazamet and after failing to be fully acquitted, appealed to the parlement of Toulouse. Voltaire felt confident as he had been assured that all of the parlement was for Sirven (D15907). In the same letter he informed D'Argental of his belief that 'il s'est fait depuis dix ans une terrible revolution dans tous les parlements du royaume, excepté dans la grand'chambre de Paris.' Incidentally, Maupeou's appeasement of the parlement of Toulouse by the removal of its *premier président*, François de Bastard, also worked in Sirven's favour (D16052) as Drouyn de Vaudeuil, an admirer of Voltaire's, replaced him.<sup>60</sup>

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<sup>58</sup> D15907, Voltaire to the comte d'Argental (20 September 1769); D16052, Voltaire to Dompierre d'Hornoy [c.20 December 1769].

<sup>59</sup> D15903, Voltaire to Richelieu (18 September 1769); D15907, Voltaire to d'Argental (20 September 1769).

<sup>60</sup> D15931, Joseph Audra to Voltaire (29 September 1769): Voltaire is informed in this letter that the partisans of *philosophie* 'augmentent chaque jour' and that the *premier président* at Toulouse is flattered by the thought of Voltaire's spending the winter there, which had been mooted in D15908; D16779, Voltaire to Pierre Firmin de Lacroix (23 November 1770): Voltaire lost no time in courting the favour of Antoine Joseph de Niquet, who succeeded Drouyn de Vaudeuil as *premier président*. The latter had resigned on 29 September 1770.

Other changes in the administration would also affect Voltaire's interests during the period preceding the *coup* Maupeou, and on a financial level, none more so than the appointment of Terray as *contrôleur général*. Of the many financial measures he introduced in order to reduce the state's crippling debt, the suspension of the payment of *rescriptions* by *arrêt du conseil* (21 February 1770) had the most obvious effect on Voltaire. Terray's initiative cost the *philosophe* 200,000 *livres*, a fact he mentioned to those influential correspondents who could potentially help him to secure its return in kind.<sup>61</sup> As usual, Voltaire wears his patriotism on his sleeve when he writes to his 'héros', the duc de Richelieu: 'Si cet holocauste est utile à l'état je fais le sacrifice sans murmurer'.<sup>62</sup> To others, his patriotic sacrifice was less in evidence. To D'Argental, he complained of the confiscation of 'tout [son] argent comptant', which was an especially harsh blow as he was trying to nurture his colony of Genevan watchmakers (D16781). Before the edict of December, Voltaire showed little interest in the conflicts between parlement and crown over the trial of d'Aiguillon, and as he heard of the edict for the first time, his pithy commentary sent to the crown's representative in Geneva confirmed a pattern in Voltaire's priorities evident since the 1750s: 'Le parlement n'a point envoyé de démission. Il n'est point du tout sûr que nous aions la guerre. Il est encore moins sûr que nous soions païés.'<sup>63</sup> Since the earliest days of Voltaire's interest in the affairs of the parlements, he has consistently ranked international affairs and his own financial affairs above them as

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<sup>61</sup> D16304, Voltaire to Richelieu (20 April 1770); D16781, Voltaire to d'Argental (24 November [1770]).

<sup>62</sup> D16304, Voltaire to Richelieu, (20 April 1770). We should not be surprised to note that after the death of Mme de Pompadour and her replacement by Mme Du Barry, Voltaire's epistolary exchange with Richelieu became even more frequent. See Paul d'Estrée, *La vieillesse de Richelieu (1758-1788)* (Paris: Emile-Paul Frères, 1921) p.136.

<sup>63</sup> D16843, Voltaire to Pierre Michel Hennin (19 December 1770).



subjects of real importance.<sup>64</sup> In 1770, this order remained undisturbed. Even the case of the duc d'Aiguillon, which was the cause of the showdown at the dawn of 1771, did not register at the time as something of fundamental importance to the nature of the monarchy.

Voltaire was certainly aware of the trial of this peer of the realm, as soon after it began he informed the duc de Richelieu that he found the whole thing 'ridicule'.<sup>65</sup> It is unsurprising that Voltaire would wish to communicate his support to d'Aiguillon's uncle, and to assure him that his own nephew would not be judging the indicted peer, particularly in this letter where he encouraged the duc to have his play, *Les Guèbres*, performed in Guyenne, where he was governor. Nor is it surprising that he ignores the importance of the trial, commenting, 'Je suis entouré de ridicules plus sérieux.' After the *lit de justice*, which was designed to exonerate d'Aiguillon (27 June), the parlement produced remonstrances (2 July) which were viewed unfavourably by Voltaire. He commented to Hennin in a postscript to his letter of 7 July: 'Vous savez comme le parlement traite M. Deguillon malgré les lettres patentes du Roy. Il ne veut point *obtempérer* [Voltaire's emphasis]' (D16500). At first glance this may appear to be a simple statement of fact as opposed to a criticism, but as Voltaire explained in the *Histoire du parlement*, the word 'obtempérer' simply meant 'obéir', and Voltaire mentioned the parlement's use of this word in order to emphasise its disobedience.<sup>66</sup> However, two days later he reserves his opinion on the

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<sup>64</sup> See the section of Chapter 2 entitled 'The 1750s: From Apathy to Outrage'.

<sup>65</sup> D16304, Voltaire to Richelieu (20 April 1770).

<sup>66</sup> During the conflicts over the refusal of sacraments, the parlement had produced strongly worded remonstrances which the king refused to hear. The parlement went on strike with the result that 'Le roi leur ordonne, par des lettres de jussion, de reprendre leurs fonctions ordinaires, de rendre la justice à ses sujets, et de ne se plus mêler d'affaires qui ne les regardent pas. Le parlement répond au roi qu'il ne peut obtempérer. Ce mot obtempérer fit à la cour un singulier effet. Toutes les femmes

trial of d'Aiguillon in a letter to a more neutral correspondent, deciding to wait instead for the denouement. Clearly, the association of the magistrate and *philosophe*, La Chalotais, with the trial of d'Aiguillon prevented a rush to judgement on Voltaire's part. But again, Voltaire underestimated the repercussions of the trial, believing that Parisians were simply fickle beings: 'Je crois que rien ne pourra empêcher le factum de la Chalotais de paraître. Le public s'amusera, disputera, s'échauffera; dans un mois tout finira; dans cinq semaines tout s'oubliera.'<sup>67</sup> In short, if we look at the years preceding Maupeou's revolution as a 'pre-revolutionary' period, Voltaire was oblivious to the emergence of a state of affairs that allowed for the possibility of Maupeou's actions. Voltaire did not see, before the edict of December 1770, a political stalemate which only an absolutist reaction could break, or the kind of relentless opposition which gave the king no option but to react swiftly and firmly.<sup>68</sup> In fact, as suggested in the previous chapter comparing the *Histoire du parlement* and the *Précis du siècle de Louis XV*, we see examples in 1770 of Voltaire's measured criticism of royal authority to select correspondents.

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demandaient ce que ce mot voulait dire; et quand elles surent qu'il signifiait obéir, elles firent plus de bruit que les ministres et que les commis des ministres' (*Histoire du parlement de Paris*, p.518). The result was the parlement's exile to Pontoise. However, it is interesting to note that in Voltaire's notebooks, his problem with the term is purely linguistic: 'Vous dites que vous ne pouvez obtempérer. Qui vous empêche de dire que vous ne pouvez exécuter ce qu'on vous commande, que l'amour du bien public ne vous permet pas d'obéir à des ordres que la sagesse du roy révoquera, que vous ne pouvez consentir, acquiescer, vous soumettre à un ordre qui vous paraît contraire aux intérêts de l'état, que vous ne pouvez consentir à une déclaration qui vous semble choquer les lois? Que vous ne obtempérer [sic] n'est pas français. Acquiescer, condescendre, exécuter les ordres, obligé de représenter, encor forcé de remontrer. Il n'y a point de terme barbare de chicane auquel on ne puisse substituer des expressions intelligibles' (*Notebooks II*, in *OCV*, vol.82, p.573).

<sup>67</sup> D16506, Voltaire to Jean François René Tabareau (9 July 1770), who was *directeur général des postes* in Lyon.

<sup>68</sup> This is the type of situation presented by defenders of the *coup* Maupeou. See Zysberg *La monarchie des lumières*, p.296-321, Cobban, *A History of Modern France*, p.96.

Soon after hearing of the king's edict of discipline, Voltaire remarked sardonically to D'Alembert, 'Il se trouve que les philosophes ont gâté le parlement.' The preamble of the edict had accused the magistrates of having been influenced by the *esprit de système*, an accusation normally levelled at the *philosophes*. Voltaire continued: 'on dit qu'ils font actuellement enchérir le pain, et qu'ils sont l'unique cause de la guerre entre l'Angleterre et l'Espagne. N'est ce pas aussi la philosophie qui nous a pris nos rescriptions?'<sup>69</sup> Voltaire does not make it explicit, but we can assume that he saw the blame for these problems lying squarely with the ministry. Two days later, Voltaire related to the same correspondent that 'c'est une petite douceur de voir les assassins du chevalier de la Barre humiliés. Mais n'importe par qui nous soyons écrasés, nous le serons toujours' (D16854). The enemy of the *philosophes*, and therefore Voltaire's enemy, was not any one institution of the *ancien régime*. Judicial brutality was just a symptom of a much larger system which lacked humanity because it lacked all the qualities that defined humanity: tolerance, compassion, justice and reason. This system was not something Voltaire could ever envisage changing under the reign of Louis XV. In fact, the king's reign is itself subtly slighted in a letter of April 1770 to Richelieu. Voltaire informed his sometime protector, who shared his nostalgia for the previous reign, that 'Tout est précieux du siècle de Louis 14 [...] Il faut à présent aller en Russie pour voir de grandes choses' (D16304). Of course, such an analysis, like many of Voltaire's, prioritised a criticism of the symptoms presented by society without a real diagnosis of the problem that

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<sup>69</sup> D16841, Voltaire to D'Alembert (19 December 1770).

engendered these symptoms.<sup>70</sup> Maupeou's reforms would simply mask the symptoms temporarily, an achievement Voltaire would have to commend even if these reforms only loosely corresponded to what he would have envisaged as necessary for the French judicial system. If we look to the final chapter of Voltaire's *Commentaire sur le livre des délits et des peines* (1766) entitled 'Idée de quelque réforme' we see that, following his experience of the cases of the Calas and Sirven families, many reforms are suggested for a more humane and less arbitrary criminal justice system. These included an end to the venality of judicial posts; the uniformity of laws across the entire kingdom as opposed to a variety of differing customs; the imposition of limits defining exactly the respective jurisdictions of ecclesiastical and civil laws; the justification of all judicial decisions and the necessity of the king's sanction for the confirmation of all death sentences. This conclusion only summed up briefly some of the reflections that Voltaire had made and would make on the administration of justice in France.<sup>71</sup> Voltaire was always keen to emphasise the arbitrary nature of criminal procedure, from the interrogation of witnesses by a single judge to the refusal of legal representation to certain accused (*Des délits et des peines*, Chapter 22). The use of torture (Chapter 12) and the disproportionate severity of punishments (Chapters 2 and 18) were also criticised. As 1770 drew to a close, Voltaire wrote to the author of *Discours sur la nécessité et les moyens de supprimer les peines capitales* (1770) commending his conclusions: 'on n'a jamais mieux prouvé que les

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<sup>70</sup> This is the great problem that we are faced with when dealing with Voltaire's reactions to French society. Why did he not diagnose the problems as opposed to offering repeated indictments of the symptoms?

<sup>71</sup> Other works that dealt with this question included *Histoire d'Elisabeth Canning et des Calas* (1762), *André Destouches à Siam* (1766), *Avis au public sur les parricides imputés aux Calas et aux Sirven* (1766), *Relation de la mort du chevalier de la Barre* (1766), *La Méprise d'Arras* (1771).

juges doivent commencer par être homes, que les suplices des méchants doivent être utiles à la société, et qu'un homme pendu n'est bon à rien.<sup>72</sup>

When we see the kind of judicial reform that Voltaire deemed necessary after almost a decade of activism we cannot fail to be struck by the *political* nature of Maupeou's reform of the administration of justice. Even those who support Maupeou with the benefit of hindsight have to admit that the chancellor's primary aim was the eradication of parliamentary opposition and not enlightened reform.<sup>73</sup> Only on the abolition of venality and, perhaps, the institution of free justice would Voltaire's ideas on reform and the actions of Maupeou correspond.<sup>74</sup> Why then did Voltaire embrace the reforms so wholeheartedly, to the extent that he would write no less than eight pamphlets in support of the Chancellor? Before we look at this question it is important to discuss briefly the nature and extent of Maupeou's revolution.<sup>75</sup>

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<sup>72</sup> D16873, Voltaire to Louis Philipon de la Madelaine (28 December 1770).

<sup>73</sup> Zysberg, *La monarchie des lumières*: 'Néanmoins, la réforme Maupeou [...] ne touche pas au reste du système judiciaire, car son objectif, avant tout politique, est atteint avec l'application des edits de 1771: briser les reins de l'opposition parlementaire' (p.320).

<sup>74</sup> Voltaire consistently opposed venality (even if it benefited him personally from time to time): See William Doyle, 'Voltaire and Venality: the Ambiguities of an Abuse', in eds T.D. Fleming, E. Freeman, D. Meakin, *The Secular City: Studies in the Enlightenment* (University of Exeter Press, 1994), p.102-11). The giving of *épices* began as simple gifts to magistrates, but under Charles VII money was given: 'Ces épices furent bientôt un droit converti en argent. C'est ainsi que tout a changé, et ce n'a pas toujours été pour le mieux' (*Histoire du parlement de Paris*, p.204).

<sup>75</sup> As a published thesis on the legal aspects of Maupeou's reforms, Robert Villers's *L'Organisation du parlement de Paris et des conseils supérieurs d'après la réforme de Maupeou* (Paris: Jouve, 1937), is the most comprehensive study.



## ***The Extent of Judicial Reform Under Maupeou***

As we have seen, the magistrates of the parlement of Paris, unwilling to bow to what they considered an affront to their offices,<sup>76</sup> had all headed for another uncertain exile by 21 January 1771. By 24 January, the *conseil privé*, comprising *conseillers d'Etat* and *maîtres de requêtes*, was solemnly installed in the *Palais de Justice* to serve as a replacement court which, of course, it could not do in the absence of the lawyers who were now also on strike in solidarity with the magistrates. The edict of 23 February 1771 was easily passed by the replacement court. It limited the size of the jurisdiction of the parlement of Paris to the Ile-de-France, Orléanais, Picardie, Reims and Soissons, conserving, however, its status as the *cour des pairs* and its right to remonstrate. In the remaining areas of the parlement's former jurisdiction, five *conseils supérieurs* were established at Blois, Châlons-sur-Marne, Clermont-Ferrand, Lyon and Poitiers, each functioning as a court of appeal in civil and criminal matters from the lower courts in their respective jurisdictions.<sup>77</sup> Magistrates were to be paid a wage, as the practice of *épices*, which had started out as the giving of a gift to judges by litigants but had slowly formalised into a standard cost for those who sought the king's justice, was abolished. Most importantly, the new magistrates' offices would no longer be the private property of their holders. The creation of these new courts would prove to be easier than the

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<sup>76</sup> According to Swann (*Politics and the parlement of Paris*, p.337), the preamble was most insulting part of the edict. The magistrates would have genuinely felt that accusations that they were attacking the authority of the king were grossly unjustified. The parlement did not originally challenge the content of the edict of discipline, a fact noted publicly by Maupeou (Flammermont, *Remontrances*, iii.189), and only found fault with the third article after the king had first responded to their representations. See Mansergh, 'The Revolution of 1771', p.421-22.

<sup>77</sup> The *conseil souverain* at Arras was elevated to make a sixth *conseil supérieur*.

remodelling of the parlement of Paris.<sup>78</sup> The most high profile opposition to the reincarnation of what many considered to be the *cour des pairs*, came from the *Princes du sang* who, with the exception of the comte de la Marche, protested to the king on 12 April and were subsequently sent away from the royal court.<sup>79</sup> Perhaps in order to avoid the stigma of association with Maupeou's authoritarian reform, new magistrates did not rush to join the new parlement of Paris. Maupeou was forced to dissolve the *cour des aides* and the *grand conseil* in order to people the jewel in the king's judicial crown. At the *lit de justice* of 13 April 1771, an edict confirming these changes was registered, but not without a certain amount of hostility.<sup>80</sup> Of the provincial parlements, only four – Besançon, Dijon, Toulouse and Rennes – formally protested against the *lit de justice* of 13 April, while these courts and others – Douai, Aix, Grenoble, Bordeaux, Rouen – all produced remonstrances against the changes forced on their colleagues, some even calling for the assembly of the *Etats Généraux*.<sup>81</sup> Eventually all but the minor *conseils souverains* at Perpignan and Colmar and the recently subdued parlement of Pau escaped the chancellor's reforming frenzy. The suppression of the provincial *cours des aides* and *chambres des comptes* was less systematic and, as noted by Egret, 'la réforme reste limitée à un

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<sup>78</sup> At Châlons-sur-Marne, Clermont-Ferrand, Lyon and Poitiers, the first presidency of the new courts was given to the local *intendant*. The courts in Arras, Clermont-Ferrand and Lyon were easily filled with members of the suppressed courts of inferior jurisdiction in these towns. See Egret, *Louis XV et l'opposition parlementaire*, p.184.

<sup>79</sup> Swann, *Politics and the Parlement of Paris*, p.358.

<sup>80</sup> Flammermont, *Remonstrances*, iii.193-199. The *avocat général* Séguier responded to the chancellor's *discours* during the *lit de justice* installing the new parlement of Paris with a plea for the return of the exiled magistrates, 'annoncés comme coupables d'avoir voulu s'approprier une partie de l'autorité souveraine; déshonorés aux yeux de leurs concitoyens par ces imputations flétrissantes; condamnés, sans avoir été entendus, et jugés sans aucune instruction préalable [...] est-il encore quelque genre de peine qu'on ait pu leur faire supporter?' (p.194). He proceeded to assert that the former magistrates could not be suspected in the slightest of having attacked royal authority.

<sup>81</sup> Zysberg, *La monarchie des lumières*, p.317

certain nombre de Compagnies et un observateur attentif constate que celles qui ont été frappées l'ont été non pour le bien public, que l'on invoque, mais pour satisfaire une vengeance ou pour fournir du personnel à un tribunal de nouvelle creation'.<sup>82</sup>

Maupeou himself later admitted in his self-justifying *compte rendu* that his reforms were the result of an unforeseen necessity.<sup>83</sup> John Carey has described the results of this necessity as a hotchpotch of ideas on judicial reform, some of them first mooted well before the eighteenth century.<sup>84</sup> Proposals to diminish the size of large jurisdictions, such as that of Paris, could be found in the writings of the Abbé de Saint Pierre, back in the 1730s.<sup>85</sup> Indeed, the ending of venality had been desired by the crown and the courts since the practice had first emerged in the fourteenth century.<sup>86</sup> However, this should not detract from the positive effects of certain reforms introduced by Maupeou. William Doyle's detailed study of the parlement of Bordeaux shows that, in spite of the limited nature of the reforms, they led to much greater efficiency in parliamentary affairs. Articles 9 and 10 of the edict establishing a new parlement in Bordeaux required that a register be kept of attendance at parliamentary sessions with *gages* - parliamentary wages - paid accordingly, a

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<sup>82</sup> Egret, *Louis XV et l'opposition parlementaire*, p.200.

<sup>83</sup> Maupeou, 'Mémoire de Maupeou à Louis XVI' (1789), in Flammermont, *Le Chancelier Maupeou et les parlements* (Paris, 1883) Appendix, p.599-646 (p.632).

<sup>84</sup> Carey, *Judicial Reform in France*. He says that Maupeou, 'not having the leisure or perhaps the inclination to rethink [existing ideas on judicial reform], simply did what he could with them' (p.95). Maupeou's *compte rendu* supports such an interpretation. He stated that he was 'Entraîné malgré moi par un torrent qu'il ne m'a pas été possible d'arrêter, environné de tous côtés d'écueils et d'orages, j'ai été réduit à manœuvrer au milieu de la tempête et j'ai jeté l'ancre où j'ai pu' ('Mémoire de Maupeou à Louis XVI', p.599).

<sup>85</sup> Carey, *Judicial Reform in France*, p.45. Saint-Pierre's *Mémoire pour diminuer le nombre des procès* (1725) had suggested, among other things, a more uniform division of jurisdictions.

<sup>86</sup> William Doyle, *Venality. The Sale of Offices in Eighteenth-Century France*, (Oxford: Clarendon Press, 1996), p.3-4.

regulation that did much to discourage the absenteeism of malingering magistrates.<sup>87</sup>

The result was much greater momentum in the affairs of parlement, in spite of the reduction in the number of magistrates. In the Parisian region between 1771 and 1774, a three-fold decrease in the number of magistrates still saw the effective administration of justice.<sup>88</sup> However, this new efficiency came at a price. In Bordeaux, for example, the new and expanded system of *gages*, annual ‘gratification’ payments and other emoluments, cost the royal treasury twice as much as before (even though half the number of magistrates were employed).<sup>89</sup> Apart from the creation of the *conseils supérieurs* and the changes to specific courts, the main pillars of Maupeou’s reform were the abolition of venality and *épices*.

Notwithstanding the obvious benefits brought by such measures, the reality of the situation showed them to be less daring and progressive than they first appeared. First, both reforms were confined to the *conseils supérieurs* and reformed parlements. Venality and *épices* continued in the lower jurisdictions such as the *baillages* and *présidiaux*. For this reason, those least able to pay the costs of justice were still forced to pay. Similarly, the abolition of *épices* in the superior jurisdictions was not a guarantee of free justice. The costs formerly paid by litigants alone were now absorbed by an increased *capitation*, paid by all. Moreover, the ancillary costs of justice increased at an alarming rate. A declaration of 1 June 1771 increased

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<sup>87</sup> William Doyle, *The Parlement of Bordeaux and the End of the Old Regime, 1771-1790* (London and Tonbridge: Ernest Benn, 1974), p.149-50. A similar regulation was introduced for Paris: ‘Edit du Roi Portant suppression et création d’Offices dans le Parlement de Paris’, article 13. Reproduced in *Code des parlements* (Paris: [n.pub.] 1772) p.152-162.

<sup>88</sup> Zysberg, *La monarchie des lumières*, p.320.

<sup>89</sup> Doyle, *The parlement of Bordeaux*, p.149.



ancillary judicial fees and the duty on stamped paper, with the result that these legal costs increased by up to two and a half times.<sup>90</sup>

### **Voltaire's Reaction to Maupeou's Reforms**

The technical details of Maupeou's reforms were of little enough concern to Voltaire;<sup>91</sup> what we notice in his letters of 1771 is a repetition of his praise for these reforms to various correspondents. The assassinations of La Barre and Lally appear as a regular refrain, justifying a position that Voltaire obviously felt some would fail to comprehend.<sup>92</sup> Durand Echeverria, who has looked more closely at Voltaire's reaction to Maupeou's reforms than any other scholar, explained the *philosophe's* support for Maupeou thus:

It may be conceded that his own interests, both private and altruistic, entered into his motives, but he probably would have followed the same line, though perhaps not so publicly and emphatically, in any case. His hostility to the Parlements, which had many causes, particularly the Calas and La Barre cases, was of long standing, and his *Histoire du parlement de Paris* [...] did commit Voltaire in advance to back the minister's programme. Yet Voltaire's antipathy to the Parlements, which was after all no greater than Diderot's, by itself might perhaps not have led him to go farther than the more or less neutralist position adopted by the rest of the

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<sup>90</sup> Doyle, *The parlement of Bordeaux*, p.149. The old parlement of Besançon criticised the illusory notion of free justice that Maupeou purported to introduce, reminding the chancellor that *épices* were only one cost among many, which went indirectly into the crown coffers. Other costs included 'les sommes qui se lèvent sur les plaideurs par les huissiers et sergents, par les Contrôleurs des actes et exploits, par les receveurs des consignations enfin, pour le papier et parchemin timbre'. Cited in Egret, *Louis XV et l'opposition parlementaire*, p.199.

<sup>91</sup> Voltaire makes no reference to the only systematic attempt to change judicial procedure in civil cases, the *Edit du Roi portant Règlement pour la Procédure* (February 1771). This edict, which Lucien Laugier grandiosely entitled 'Le code de Procédure Civile' (*Le Triumvirat*, p.133) brought changes to procedure in civil cases over thirteen articles, the first attempt to do so since the Ordinance of 1667. Reproduced in *Code des Parlements*, p.59-111.

<sup>92</sup> D17080, D17082, D17175, D17189, D17199, D17223, D17234, D17308, D17327.



philosophes had not his fundamental political philosophy been involved.<sup>93</sup>

Peter Gay's analysis, which I have mentioned previously, also underlined the importance of Voltaire's political thought in his support of Maupeou, explaining that the other *philosophes* lacked his political vision as 'none of them saw as clearly as Voltaire that Maupeou's program was the best, perhaps the only, hope for saving the country from revolution.'<sup>94</sup> Those who regard Maupeou's reforms as examples of resurgent French absolutism, see Voltaire's support as corresponding to his belief in French absolutism. This emphasis on a basic political philosophy of absolutism is clearly intended to show an attractive continuity in Voltaire's political thought. Echoing Gay's understanding that this was part of Voltaire's 'last great battle for French absolutism' (p.309), Echeverria states that Voltaire soon realised that the Maupeou revolution 'was an episode in a far-reaching struggle taking place in virtually all of Europe except Spain, Portugal, and Russia between aristocratic corporatism and what has been called enlightened despotism'.<sup>95</sup> In reality, there are elements of continuity and rupture apparent in Voltaire's strategic realignment of his position vis-à-vis the royal authority in 1771, which cannot be explained by reference to a fundamental political philosophy of absolutism.

A glance at Voltaire's interactions with royal authority throughout his lifetime shows us that his active and open criticism of a government minister would

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<sup>93</sup> *Voltaire's political pamphlets of 1771*, ed. Durand Echeverria, *OCV*, vol.73, (Oxford: VF, 2004), p.197. See also Echeverria, *The Maupeou Revolution*, p.147-68.

<sup>94</sup> Gay, *Voltaire's politics*, p.323.

<sup>95</sup> *Voltaire's political pamphlets of 1771*, ed. Echeverria, p.197.

be inconceivable.<sup>96</sup> Given this indisputable truth, the most intense opposition we could expect from him would be a stubbornly silent and unenthusiastic acquiescence in a ministerial programme of which he disapproved. This, however, is far from his reaction to Maupeou's reforms. Continuity is therefore evident in Voltaire's approach to the ministry, in that he continued to support monarchical government. On the other hand, the realisation of this consistent policy necessitated a rupture which was accentuated by Voltaire's wish to capitalise on a political context which now provided him with new opportunities as both *seigneur* of Ferney and *philosophe*.

The loss of the duc de Choiseul was a blow to Voltaire. As the chief minister in Louis XV's government for almost a decade and a protector of Voltaire, Choiseul had been an extremely useful friend. It was only in October 1770 that Voltaire had last requested a favour from the minister. Voltaire had written to the duchesse de Choiseul explaining his predicament: 'J'ai voulu faire une niche à mon neveu Lahoulière [...]'.<sup>97</sup> Within a week the duc himself had replied assuring Voltaire 'que le roi ne me refusera pas la grâce de le [La Houlière] faire brigadier à mon premier travail'.<sup>98</sup> Of course, not to mention specific requests of this nature, Choiseul had been instrumental in helping Voltaire to realise the success of his watch manufactory at Ferney and also with the plans to establish a port at Versoix.<sup>99</sup> The exile of this

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<sup>96</sup> He had actively supported Machault's introduction of the *vingtième* and even expressed his acceptance of Terray's failure to pay *rescriptions* which deprived him of 200,000 livres (D16304).

<sup>97</sup> D16691, Voltaire to the duchesse de Choiseul (8 October 1770).

<sup>98</sup> D16702, Choiseul to Voltaire ([14 October 1770]). Besterman confirms in his commentary that La Houlière appeared on the army list of 12 November 1770 as *brigadier d'infanterie*.

<sup>99</sup> D16417, Voltaire to Hennin (16 June 1770). Choiseul had organised for some of Voltaire's watches to be bought by the king. In the commentary on this letter, Besterman cites a letter from Hennin to Choiseul on the same day in which he informs the minister of the extent to which Ferney's success is owed to him: 'la faveur dont vous honorez la manufacture de Ferney et les secours que M. de Voltaire

minister, whom Voltaire had called three days previously 'le premier homme de l'Europe' (D16858), would have serious financial repercussions for the *seigneur* of Ferney. Indeed, Voltaire's humanitarian efforts would also be hampered for want of a protector. On receiving word of the exile, he wrote to Christin informing him of the detrimental effect this would have on the case of the serfs of Saint Claude, a reminder of the reality of absolute monarchy which he had eyes to see only at these low moments: 'Un mot d'un seul homme suffit pour déranger les idées de cent mille citoyens',<sup>100</sup> Voltaire complained. Voltaire responded to the blow as only he knew how, with the irrepressible opportunism that characterises the successful. That very day - ever the pragmatist - he wrote to France's representative in Geneva roundly criticising all those 'correspondants welches' who say what a pity it is to lose Choiseul without even knowing who will replace him, and requesting names 'afin qu'on sache à qui s'adresser'(D16879). Choiseul, who had consolidated his power, holding the ministries of War and Foreign Affairs, was replaced in these departments by the marquis de Monteynard and – not until June - the duc d'Aiguillon, respectively. Bourgeois de Boynes replaced Choiseul's cousin, the duc De Praslin, who had held responsibility for the Navy. Mme Du Deffand had remarked with accuracy and a strange prescience in a letter to Horace Walpole of 9 January 1771, 'Je trouve que ceci ressemble à l'assassinat de César; on n'avait rien prévu de ce

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lui donne engagé les meilleurs ouvriers de Genève à s'y porter.' In D16153 and D16155, both Voltaire to Hennin (both 16 February 1770), Voltaire is concerned at the pace at which the plan for Versoix is running. It is clear that the success of the project depends entirely on the duc de Choiseul. See J.P. Ferrier, *Le Duc de Choiseul, Voltaire et la création de Versoix-la-ville* (Genève, 1922).

<sup>100</sup> D16878, Voltaire to Christin (31 December 1770). Voltaire had been informed of the Choiseuls's exile by Mme Du Deffand, D16875 (28 December 1770). Voltaire echoed his sentiments on the precarious position of government ministers in a letter to Elie Bertrand, D16946 (7 January 1771): 'On ne peut compter sur rien de ce qui dépend de la cour. Le premier homme de l'état n'est jamais sûr de coucher chez lui.'

qu'on ferait après.'<sup>101</sup> Little did she know that after the fall of César-Choiseul, a latter-day triumvirate would emerge in the form of Maupeou, Terray and d'Aiguillon. Voltaire, who had avoided the fate of Socrates at the hands of the anti-*philosophes* a decade previously, had to ensure that he would not be Cicero to the new triumvirs.<sup>102</sup>

Voltaire lost no time in courting the new ministry, a process he had actually begun before the demise of his protector. We have seen how he quickly moved to open an amicable channel of contact with the newly appointed chancellor in 1768. This relationship would have to develop, however, if it was to compensate for the loss of Choiseul. While the importance to Voltaire of a powerful protector has been noted, explaining thus his apparently amoral abandoning of the Choiseuls,<sup>103</sup> we must be careful not to see the situation as a new allegiance simply replacing an old one. During the 1760s, Voltaire had enjoyed the protection of the *de facto* first minister, Choiseul, and his 'héros', the duc de Richelieu, themselves members of opposing factions at court. Richelieu was at best hostile to *philosophie*, something of which

Voltaire was well aware.<sup>104</sup> The rise of the *dévot* faction at court and their toppling of Choiseul meant that Voltaire was now bereft of a *grand seigneur* disarmed by *philosophie*. Richelieu became an even more important ally when his cousin, the duc

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<sup>101</sup> Cited in Mansergh, 'The Revolution of 1771', p.442.

<sup>102</sup> The Second Triumvirate of Antony, Lepidus and Octavian began in 43 BC after the death of Cesar. Cicero was a victim of their reign of terror.

<sup>103</sup> Echeverria, *The Maupeou Revolution*, p.148; neither Peter Gay nor François Quastana address the issue of Voltaire's abandonment of Choiseul.

<sup>104</sup> D16418, Marin to Voltaire (16 June 1770). Marin tells Voltaire of his suppression of references to the *philosophes* in Palissot's new play *L'Homme dangereux*, in spite of Richelieu's insistence that some remain. Richelieu had been a protector of Palissot and other anti-*philosophe* writers, which

d'Aiguillon, was appointed to the ministry. The *dévots* were no better friends to Voltaire than the *parlementaires* had been, but the option to ignore or be hostile to their new vigour was not open to Voltaire, for whom approval of government ministers was the default position. Paradoxically, the new political context made things easier for Voltaire whose overtures could now have one clear direction. What seemed on the last day of 1770 like a dangerous loss, had become by early 1771, an opportunity to be seized. The chance to convince the *dévots* - and through them the king - of the philosophes' usefulness (or Voltaire's at the very least), and to reap the resulting benefits of ministerial favour for his financial and humanitarian good works, now presented itself to Voltaire. He could not refuse, particularly when the victims of this new regime – the parlements – represented many of the problems of the old regime.

### ***Voltaire's Works: A Strategic Reaction?***

By the end of January, before any concrete reforms had been announced, Voltaire had thrown himself headlong into backing Maupeou. He wrote to Marin at the end of January, by which time he had obviously heard rumours that reforms would be made, namely, the reduction of the jurisdiction of the parlement of Paris and the introduction of a new legal code: 'Si on prépare un nouveau code dont nous

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earned him the hatred of the *philosophes* in the *Académie française*. Voltaire was well aware of Richelieu's open hostility to *philosophie*: D16692, Voltaire to Richelieu (8 October 1770).



avons tant besoin il faudra en même temps préparer une couronne civique pour m<sup>r</sup> le chancelier.<sup>105</sup> Of course, the new legal code would never make it beyond the stage of rumour, but Voltaire's belief that it would (D17046, D17047, D17048), no doubt, encouraged him in his pamphlet writing campaign which began around this time.<sup>106</sup> The above letter to Marin was accompanied by a manuscript version of the pamphlet, *Avis important d'un gentilhomme à toute la noblesse*, which was printed in early March.<sup>107</sup> The *Avis* was a short pamphlet of thirteen paragraphs, addressed to the *noblesse d'épée*, and clearly intended to rally them against their inferiors, the *noblesse de robe*, who had had the audacity to suggest that the suspicions levelled against the duc d'Aiguillon 'entach[aient] son honneur'. While it is clear from the *Histoire du parlement de Paris* that Voltaire challenged the parlement's claim to be the *cour des pairs*,<sup>108</sup> it is interesting to note that at this time, in this very letter, Voltaire is aware that d'Aiguillon was a likely ministerial candidate. Voltaire, who had shown so little concern for the trial as it happened, and had decided to reserve his judgement on the matter until all the facts were known, devoted the first 7 paragraphs of the *Avis* to a criticism of the parlement's behaviour during the trial of the peer. He

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<sup>105</sup> D16989, Voltaire to Marin (27 January [1771]). According to Besterman's commentary on D17072, Choiseul to Mme Du Deffand (11 March 1771), a copy of this letter found its way to Chanteloup, through Mme Du Deffand, where it caused some offence to the Choiseuls. Voltaire would not be forgiven for what was considered to be a disloyal abandonment of his former protectors.

<sup>106</sup> At the *lit de justice* of 13 April 1771 Maupeou had made known his intention to 'Ranimer l'étude de la jurisprudence, faire revivre le goût des connaissances utiles, rapprocher toutes les ordonnances, les lier et en faire un tout dont les différentes parties se correspondent, réunir enfin, autant qu'il sera possible, la France sous l'empire des mêmes lois, comme elle est réunie sous l'empire du même prince: voilà, Messieurs, le voeu de S.M. et l'occupation qu'Elle propose à votre zèle' (Flammermont, *Remontrances*, iii.188).

<sup>107</sup> All references to specific publication details regarding Voltaire's pamphlets of this time are taken from Echeverría, *Voltaire's political pamphlets of 1771*.

<sup>108</sup> Voltaire attempted to show that the *grands* were not normally judged by the parlement, but by the king and peers assembled wherever the former so wished. He accepted that the parlement became known eventually as the *cour des pairs*, but simply by usage rather than by statute (*Histoire du parlement de Paris*, p.192).

questions the magistrates' right to put a peer of the realm on trial (paragraph 2); he criticises their failure to respect the *lettres patentes* that brought an end to the trial (para.3) and the king's exoneration of the duc (para.4). He criticises implicitly the parlement's refusal to accept that the king was *the* court of final appeal from all the French parlements (para.5). The second half of the *Avis* repeated some of the arguments of the *Histoire du parlement de Paris* that showed the parlement's disloyalty through the ages, such as the court's refusal to provide Henri IV with funds to retake Amiens after a Spanish invasion of the town (*Histoire du parlement de Paris*, p.358-60). After the fashion of the *Histoire du parlement*, Voltaire modifies quotations to suit his purpose, attributing to the court an assertion that 'le roi lui devait sa couronne'.<sup>109</sup>

Arguments produced in 1769 and before it, to provide the *Histoire du parlement* with its polemical edge, should not surprise us when they reappear in 1771. However, Voltaire's strategic realignment of his position in anticipation of a *dévo*t-dominated ministry is more worthy of note, given his relative indifference to the duc d'Aiguillon in the preceding months. By the end of February 1771, Voltaire had developed an opinion on the trial which corresponded to that first suggested in his manuscript of the *Avis*. He shared this opinion on current events with Joseph

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<sup>109</sup> Echeverria has shown that the assertion is an impure distillation of a protestation of loyalty which formed part of the parlement's remonstrances of 7 December 1770: 'si le sceptre a été conservé, de mâle en mâle, à l'aîne de la maison royale par la succession la plus longue et la plus heureuse dont il existe des exemples dans les annales des empires; tous ces services, les plus importants sans doute qu'on ait jamais rendus à l'autorité royale et à l'Etat, sont dus, l'histoire en fait foi, à votre parlement' (Flammermont, *Remonstrances*, iii.159-63). Briefly, the parlement stated that it, as an institution, had originally forced the great vassals to respect royal authority, that it had assured the crown's independence from Rome and enforced the Salic law (*Voltaire's political pamphlets of 1771*, p.211).

Vasselier, *secrétaire des postes* at Lyon, informing him that ‘On assure que M<sup>r</sup> le Duc d’Aiguillon va être ministre. C’est un homme beaucoup plus instruit et plus sage que ses ennemis ne le disent. Ceux qui l’ont voulu entacher demeurent très entachés eux mêmes. Il n’y a rien de si ridicule dans la Comédie des plaideurs que cette rage de vouloir entacher un homme que le roi declare être très net, n’avoir rien fait que par ses ordres.’<sup>110</sup> Voltaire had a habit of passing on ‘respectable’ and dispassionate commentary on current events in his letters to Vasselier, usually before or after requesting some favour relating to his own postal requirements or those of his colony.<sup>111</sup> Unsurprisingly, Voltaire’s letters to Richelieu during this period are particularly unforgiving of the parlement, and suitably supportive of d’Aiguillon. In one such letter we see Voltaire criticise the parlement’s ‘rage d’entacher’, which, he believes, is as impertinent as anything witnessed during the Fronde (D17047). Another proves to the duc that the peers are ‘le véritable parlement aussi ancien que la monarchie’ (in spite of his belief that all origins are fabled) and shows that the parlement’s attempts to judge a peer were without solid legal or historical foundation (D17071). The courts obstinacy in the case of d’Aiguillon is also targeted as amounting to sedition: ‘C’était, ce me semble, vouloir entacher le Roi lui même’ (D17162). Later in the same letter, Voltaire informs the duc of his predicament: ‘Il y avait des manufactures sous la protection de M. Le Duc de Choiseul; tout cela est presque détruit en un jour’, adding, perhaps to remind Richelieu of the responsibility he bore for the colony’s misfortunes because of his opposition to Choiseul, ‘Les

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<sup>110</sup> D17037, Voltaire to Vasselier (23 February 1771).

<sup>111</sup> D17022, D17037, D17038, D17100, D17158, D17382.

petits pâtissent du malheur des grands, *et quelquefois même de leur bonheur* (my emphasis).'<sup>112</sup> In July, after the obligatory compliments to the new parlement, Voltaire mentions again Terray's confiscation of 200,000 livres, which he now states is responsible for the failure of his colony (D17308). After fourteen letters in seven months, Voltaire had not yet received a solid assurance from his 'héro' that assistance would be forthcoming. By September, Voltaire felt he had given enough support to the new ministry to make a specific request of d'Aiguillon's uncle, Richelieu: 'Je désire seulement qu'on daigne recommander [la colonie] à Paris à M<sup>r</sup> D'Ogny, Intendant général des postes, et en Espagne à M<sup>r</sup> Le Marquis D'Ossun, qui nous ont rendu déjà tous les bons offices possibles' (D17378). At around the same time, Voltaire wrote to the duc d'Aiguillon making the same request, and as we know from the minister's quick response, it was granted in principle. The relationship with the new ministry had been consummated, in words at least, by d'Aiguillon's compliment to the *philosophe*: 'Une colonie fondée par votre générosité, instruite par vos leçons, dirigée par vos conseils, encouragée par vos exemples ne peut que se rendre utile à l'état, et je me feray gloire de contribuer à sa prospérité dans tout ce qui pourra dépendre de moy' (D17395).

Maupeou had, even earlier, responded positively to Voltaire. As we have seen above, Voltaire lost no time in contacting the new chancellor in 1768, offering him a gift in hope, perhaps, of some favourable consideration. In August 1770, Voltaire

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<sup>112</sup> Voltaire had been aware, of course, of Richelieu's involvement in the plotting against Choiseul. See D16931, Voltaire to d'Argental (1 January 1771). With D16692 (8 October 1770), Voltaire sent Richelieu a copy of *Dieu: Réponse au Système de la nature* (1770), in order to convince his hero that *philosophie* was not that dangerous: 'Vous me reprochez toujours les philosophes et la philosophie. Si vous avez le tems et la patience de lire ce que je vous envoie, et de le faire lire à Madame votre fille, vous verrez bien que je mérite vos reproches bien moins que vous ne croiez.'



wrote to the chancellor directly, firstly lauding his literary style and then offering him a refutation of d'Holbach's *Système de la nature* (1770).<sup>113</sup> Voltaire's opposition to d'Holbach's atheistic work is not surprising as his constantly expressed deism had been a feature of his thought since *Alzire* (1736).<sup>114</sup> However, his courting of the chancellor, titular head of the booktrade with responsibility for censorship, while hardly surprising, gives us a good idea of Voltaire's impression of the possibilities presented by the new ministry, and this before the loss of Choiseul or the introduction of any reforms. It is certainly true that by May 1771, Voltaire's numerous pamphlets in favour of the reforms initiated by Maupeou had earned him the chancellor's appreciation: 'je vous remercie de la justice que vous rendez à mes vues; votre suffrage me dit de faire mieux encore.'<sup>115</sup> But it is important to realise that the content of these pamphlets often amounted to little more than a regurgitation of the many reasons he invoked on a near daily basis in his correspondence, whether to justify a position others found strange for him to have adopted, or to convince the crown of his support in letters to select correspondents.

Durand Echeverria has stated that Voltaire's political pamphlets of 1771 do not rank among his best: 'One senses in them an underlying unease, awkwardness,

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<sup>113</sup> D16605, Voltaire to Maupeou (22 August 1770). Ironically, Voltaire's *Dieu et les hommes* would be condemned at the same time as d'Holbach's *Système de la nature* in an *arrêt* of the parlement of Paris on the 19 September 1770.

<sup>114</sup> See also *Dieu et les hommes* (1769): Voltaire believed in the need of a vengeful and rewarding God as it helped to maintain order in society. We should also note that he thought d'Holbach's work was dangerous (D16565, D16569). He attacked it in the article 'Causes finales' in the *Questions sur l'Encyclopédie* (M.xviii.97-98). In the article 'Dieu, Dieux' in the same work, Voltaire expressed his belief that the belief in God was 'utile au genre humain' because it was a check on despotism among men (M.xviii.377).

<sup>115</sup> D17179, Maupeou to Voltaire (7 May 1771). Voltaire's other pamphlets of this period included *Réponse aux remontrances de la Cour des aides*; *Fragment d'une lettre écrite de Genève*; *Sentiments des six conseils établis par le Roi, et de tous les bons citoyens*; *Très humbles et très respectueuses remontrances du grenier à sel*; *Lettre d'un jeune abbé*; *Les peuples aux parlements*; *L'Equivoque* and *Discours du conseiller Anne du Bourg à ses juges*.



and embarrassment, as though Voltaire sensed that his position, though sincere and reasonable, was nevertheless somehow ambiguous.<sup>116</sup> While this is clearly a subjective interpretation of the pamphlets' content, it can be shown to hold an element of truth when we examine Voltaire's correspondence of the period during which the texts were written. In the first half of 1771, Voltaire's correspondence repeats in a mantra-like fashion, his various reasons for supporting Maupeou. Paradoxically, this repeated enumeration, rather than convincing us of the verity of Voltaire's reasoning, tends instead towards an undermining of his motives. This is accentuated by Voltaire's practice of prioritising certain arguments when writing to certain correspondents. One is left with the impression that these arguments have, to a certain extent, a rhetorical function in Voltaire's correspondence. The arguments are then repeated, almost verbatim, in the pamphlets written during the spring of 1771. While it would be impossible to summarise the letters of this period which are to be found in Besterman's *Correspondence* in their hundreds, a representative sample is quite revealing as to Voltaire's epistolary rhetoric. If we look at examples of his letters to more 'enlightened' correspondents during this period (the *encyclopédiste* D'Alembert, the lawyers Christin and Elie de Beaumont) then the reasons for supporting the reforms are put down to the old parlements' brutality (D17230); the names of La Barre (D16998, D17034, D17054, D17082, D17234) and Lally (D17047, D17080, D17082) punctuate these letters and many others. Voltaire supports the creation of the *conseils supérieurs* as the reduced jurisdiction meant that litigants would no longer have to travel so far (D17014, D17046, D17082) and also

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<sup>116</sup> Voltaire's political pamphlets of 1771, ed. Echeverria, p.200.

praises the introduction of free justice (D17129, D17525). At the start of February, Voltaire attempted to convince Christin, who was working on behalf of the serfs of Saint Claude, that their only option was to contact the chancellor and ‘intéresser sa gloire à signaler son ministère par cette belle action’, acknowledging that ‘c’est de lui que tout depend’.<sup>117</sup> Later, Voltaire admitted to Elie de Beaumont, whom he knew, perhaps, to have written pamphlets against Maupeou,<sup>118</sup> that many of the old *parlementaires* were good men, but that the others were just executioners. He also accepted (and this in June 1771) that two specific reforms needed to be made, one of the criminal code, and the other relating to France’s customs, which varied across the kingdom. Maupeou’s reforms never addressed these crucial issues.

Another discrete type of discourse is evident in letters to the Mme Du Deffand and her ‘grandparents’, the Choiseuls (as letters to the former often contained information intended for the latter). Voltaire tried in vain to show his loyalty to Choiseul after apparently abandoning him in favour of the cabal that had unseated him. As well as including praise for his former protector in one of his pamphlets defending the coup Maupeou (*Les peuples aux parlements*), Voltaire proclaimed his devotion to Choiseul to this former minister’s enemy, the duc de Richelieu (D17199). The language of Voltaire’s letters is deliberately exaggerated in an attempt to justify his position. At the start of May 1771, he informed Mme Du Deffand: ‘Je ne crois point leur [the Choiseuls] manquer en détestant des pédants absurdes et sanguinaires. J’ai abhorré avec l’Europe entière les assassins du chevalier

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<sup>117</sup> D17034, Voltaire to Christin (2 February [1771]).

<sup>118</sup> Elie de Beaumont wrote pamphlets against the reforms, including ‘Lettre sur l’état du crédit du gouvernement en France, en date du 20 juin 1771’. According to Echeverría, ‘the only solution it suggested was the dismissal of Maupeou’ (*The Maupeou Revolution*, p. 119n).

de La Barre, les assassins de Calas, les assassins de Sirven, les assassins du comte de Lally. Je les trouve dans la grande affaire dont il s'agit aujourd'hui tout aussi ridicules que du tems de la fronde. Ils n'ont fait que du mal, et ils n'ont produit que du mal.'<sup>119</sup> Not only had the parlement persecuted others (D17189, D17216, D17306, D17327, etc.) but it had also persecuted Voltaire himself (D17193, D17269). While Voltaire does not embellish any of the claims he makes here against the parlement, his emphasis and tone are clearly exaggerated.

We need only compare two letters written on the same day, 13 May 1771, one to the duchesse de Choiseul (D17189) and the other to Jean François René Tabareau, *directeur général des postes* at Lyon (D17190) to show the inconsistency of Voltaire's rhetoric. The former attempts to justify Voltaire's hatred of the *parlementaires* in the strongest terms ('ceux qui versaient le sang de l'innocence; ceux qui portaient la barbarie dans le centre de la politesse; ceux qui uniquement occupés de leur sottise vanité laissaient agir leur cruauté sans scrupules'), while the latter makes light of the reforms that have been introduced ('J'espère que vous vous accoutumerez enfin à être jugés chez vous, et que vous ne ferez le voyage de Paris que pour votre plaisir'). As we have seen, letters to Richelieu emphasised the superior rights of peers, particularly those of the duc d'Aiguillon (D17047, D17071, D17162). The same period saw Voltaire justify his support for monarchy in numerous letters. In a letter to Saint-Lambert, he stated that he would prefer to 'obéir à un beau Lyon qui est né beaucoup plus fort que moi, qu'à deux cents rats de mon espèce.'<sup>120</sup> The following day, a similar image (if less enthusiastically expressed)

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<sup>119</sup> D17175, Voltaire to Mme Du Deffand (5 May 1771).

<sup>120</sup> D17128, Voltaire to Saint Lambert (7 April 1771).

appeared in a letter to D'Alembert: 'Je pense, puisqu'il faut servir, qu'il vaut mieux servir sous un beau lion de bonne maison que sous des rats mes confrères, dont la conduite est ridicule et insolente' (D17129). The idea that the French are a nation of children who need to be led is also repeated in two consecutive letters of 29 April, to Voltaire's exiled nephew, Dompierre d'Hornoy (D17161) and to Richelieu (D17162). That a similar idea is being expressed to a *philosophe*, a former *parlementaire* and an ally of the *parti dévot* who would enforce Maupeou's reforms as commander of Guyenne, would seem to provide Voltaire's position with an attractive consistency. We should not mistake, however, evidence of Voltaire's consistent espousal of the monarchical ideal (which is in abundance), for a consistent personal approval of monarchical practice, and we should also be aware of the rhetorical function of statements made in particular letters.

Voltaire's pamphlets of 1771 had a very specific purpose which clearly marked them as works written in a special context. They would not have emerged without Maupeou's revolution. Voltaire's other works during the ministry of the so-called triumvirate, while free from a direct inspiration by government practice, bear the hallmarks of the strategic realignment adopted by the *philosophe* during this period, and this in spite of his increasing awareness of the futility of such a position. To be sure, it had brought some advantages. From 1771-74, Voltaire's colony of watchmakers at Ferney experienced growth and success; by 1774 he was selling four thousand watches a year.<sup>121</sup> He also received some personal favours, such as the suppression of Clément's *Quatrième lettre à monsieur de Voltaire*. In the spring of 1771, Voltaire was even confident that the new regime would make his life as an



author easier; he informed his publisher that he had ‘de très fortes raisons d’espérer que quand les tracasseries du parlement seront finies Monsieur Cramer aura la permission de faire entrer à Paris quelques ballots de son livre [the fourth volume of the *Questions sur l’Encyclopédie*].’<sup>122</sup> In spite of his political realism, Voltaire occasionally allowed a naïve hopefulness to invade his thought. The reality of what Voltaire’s friendship with the new ministry could achieve was soon revealed. By the start of July, Voltaire conceded to the comte D’Argental that, between the crown and the *parlementaires*, ‘il y a des torts de tous les côtés, celà ne peut être autrement dans un païs sans principes et sans règles’ (D17279). Later that same month, the *philosophe* was stoical, expressing his negative assessment to D’Alembert: ‘Il est fort à présumer, mon cher ami, que la philosophie sera peu respectée. Notre royaume n’est pas de ce monde.’ The *parlementaires* ‘sont plus maltraités que nous [the *philosophes*]; mais c’est la consolation des damnés’ (D17285). Specific measures taken by the ministry to frustrate men of letters included a new tax on paper, which was registered by the parlement on 20 August 1771.<sup>123</sup> More worrying still was the suppression by *arrêt du conseil* of La Harpe’s *Eloge de Fénelon*, a prize-winning academic dissertation presented to the *Académie française*. Included in the *arrêt* was a stipulation that prize-winning *discours* would have to be approved by two theologians of the Sorbonne.<sup>124</sup> Voltaire’s response to D’Alembert can do little more than remind him that in any other country he would be a friend of kings or those close to kings, while in France he is ‘en butte aux bêtises d’un cuistre de Sorbonne,

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<sup>121</sup> Echeverria, *The Maupeou Revolution*, p.151.

<sup>122</sup> D17166, Voltaire to Cramer ([c.30 April 1771]).

<sup>123</sup> D17383, Voltaire to Cramer (26 September 1771). He comments that ‘La lecture est l’aliment de l’âme; mais je vois que le ministère craint les indigestions’.



ou à l'insolence d'un commis' (D17410). The situation of the *philosophes* in October 1771 prompted Voltaire to liken them, in a letter to the Protestant Jean Gal-Pomaret, to Protestants themselves, because of the persecution they endured (D17401).

Voltaire terminates the letter with the acceptance that in France, 'on ne se souciera jamais d'éclairer les hommes, mais de les asservir. Il y a longtemps que dans les pays despotiques, *saue qui peut*, est la devise des sujets.' Voltaire's hope that after the initial troubles with the parlement had died down, his works would circulate more easily in France, proved to be in vain; by October, 'Il n'y a plus moien d'envoyer un seul livre à Paris' (D17418).

Voltaire's decision to take advantage of the opportunities presented by the changing political dynamic at Versailles inevitably affected his literary endeavours. Just as the failure to be close to power, both geographically and politically, had given the patriarch of Ferney a certain amount of independence and freedom of expression in his exile, his new position, dependent on the favours of Maupeou and the new ministry, forced him to renounce some of this freedom. Echeverria, in his discussion of the *Patriote* pamphleteers (those opposed to the reforms) showed the paradoxical nature of censorship during this period as it 'not only converted men to liberalism; it also fomented radicalism. Since all the *Patriote* writings had to be published clandestinely in any case, many writers decided they might as well be hanged for a sheep as a lamb, wrote what they pleased, and ventured into ideas they otherwise would never have dreamed of publishing.'<sup>125</sup> By the same token, works written in support of the crown would be forced to follow an established line of argument.

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<sup>124</sup> D17393, D'Alembert to Voltaire (7 October [1771]).

<sup>125</sup> Echeverria, *The Maupeou Revolution*, p.61

Voltaire was aware from the earliest days of the reforms that he needed to adopt a modified approach to his publications. On the very day that he asks D'Alembert to confirm that the jurisdiction of the parlement of Paris is to be reduced, he expresses his fears in the same letter that his new work, 'l'épître au roi de Danemarck sur la liberté de la presse ne paraisse dans un temps bien peu favorable [...] je tremble toujours de la laisser courir le monde' (D17014). The king of Denmark (or rather his physician, Johann Freidrich Struensee<sup>126</sup>) had introduced freedom of the press by a rescript of September 1770, which Voltaire knew the French were 'bien loin de suivre' (D16972). The particular lines he feared were perhaps the following:

Dans Paris quelquefois un commis à la phrase  
Me dit, 'à mon bureau venez vous adresser.  
Sans l'agrément du roi vous ne pouvez penser.  
Pour avoir de l'esprit allez à la police.'<sup>127</sup>

Consequently, Voltaire imposed a form of self-censorship on the early volumes of the *Questions sur l'Encyclopédie*, which had first started to emerge after the summer of 1770. He informed Cramer of their predicament in April 1771: 'On ne doit pas s'exposer à faire dire qu'on a cassé le parlement de Paris pour établir la licence d'écrire. Ce moment cy exige la plus grande circonspection. Mon neveu l'abbé Mignot est Doien du nouveau parlement, et M: le chancelier m'honore des plus grandes bontés. C'est par cette raison là même que nous ne devons point parler des questions sur l'encyclopédie dans les circonstances où nous sommes' (D17153).

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<sup>126</sup> Laursen, J.C, 'Voltaire, Christian VII of Denmark, and freedom of the press', *SVEC* (2002:06) p.332. Struensee, the king's physician, who would become his minister, had taken to signing the young king's rescripts for him.

<sup>127</sup> *Epître au roi de Danemark*, ed. Simon Davies, in *OCV*, vol.73, p.413-33 (p.424).

Voltaire's subsequent inclusion of the article 'Parlement de France' in volume eight of the *Questions sur l'Encyclopédie*, which was nothing more than a summary of the *Histoire du parlement de Paris* followed by a positive interpretation of Maupeou's reforms,<sup>128</sup> could be seen as an attempt to secure the circulation of his work at the end of 1771 after his disappointment with the reality of the *philosophes'* situation in the previous months. In fact, Voltaire made his intentions explicit in a well-targeted letter to Mme Du Barry's nephew, the chevalier de Rochefort d'Ally. He suggested the following to the chevalier in conclusion: 'Quand vous serez à Versailles, je pourrai vous envoyer le 8 [the eighth volume of the *Questions*] où vous verrez un abrégé de l'histoire du parlement très veridique. Vous pourrez en parler à m<sup>r</sup> le chancelier qui pourra permettre que je vous fasse tenir le paquet à son adresse' (D17525). An excellent example of Voltaire's modified approach to his works can be seen in *La Méprise d'Arras* (1771). This work is similar in tone and content to Voltaire's works of the 1760s, which had brought Europe's attention to miscarriages of justice in the French courts. It concerned the case of François Joseph Monbailli who had been falsely accused on the strength of local rumours of murdering his mother, an alcoholic whose death was more likely caused by apoplexy. As John Renwick points out in his critical edition of this work, it is singular for a number of reasons. Crucially, it was signed by Voltaire, something he had never done in his pamphlets for the Calas family or for La Barre. Also, and perhaps more significantly,

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<sup>128</sup> Take for example Voltaire's description of the genesis of the judicial reforms of 1771: 'D'abord le roi se rendit aux vœux des peuples qui se plaignaient depuis des siècles de deux griefs, dont l'un était ruineux, l'autre honteux et dispendieux à la fois. Le premier était le ressort trop étendu du parlement de Paris, qui contraignait les citoyens de venir de cent cinquante lieues se consumer devant lui en frais qui souvent excédaient le capital. Le second était la vénalité des charges de judicature; vénalité qui avait introduit la forte taxation des épices.'

its purpose was less clear than similar pamphlets of the 1760s, as by the time it emerged – Voltaire first mentions the work in D17434 on 9 November 1771 – lawyers had been appointed by Maupeou to review the decision of the old *conseil souverain* at Arras, which had subsequently been replaced by a *conseil supérieur*. Did Maupeou give Voltaire permission to openly publish this work in order to discredit further the old parlements? Renwick quite rightly stops short of accepting such an unsubstantiated interpretation ‘quand on n’a pour garantir un jugement que des vraisemblances, des probabilités ou des soupçons.’<sup>129</sup> This provocative question remains, nonetheless, unanswered.

Another work written during the period of Maupeou’s chancellorship which appears to have the hallmarks of Voltaire’s adaptation to the new political situation at Versailles is *Les Lois de Minos* (1773). *Minos* was written during December 1771 and January 1772 and it is clear from Voltaire’s correspondence that the aim of the piece was to secure his return to Paris from his exile in Ferney.<sup>130</sup> As he explained to Richelieu after this ‘protector’s’ wilful failure<sup>131</sup> to secure the play’s performance at the Dauphin’s wedding, ‘J’ai imaginé encor que si les loix de Minos et la Sophonisbe

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<sup>129</sup> *La Méprise d’Arras*, ed. John Renwick, in *OCV*, vol.73, p.364.

<sup>130</sup> D17563, Voltaire to the d’Argentals (19 January 1772). Voltaire says he wrote the play between 18 December and 12 January. He hoped that the play would ‘forcer la délicatesse de la cour à quelque indulgence’. See also D18162, Voltaire to d’Argental (20 January 1773). Here he regrets his failure to have the play performed at Versailles as this might have brought him the consolation of seeing his correspondent in Paris.

<sup>131</sup> On Richelieu’s failure to fulfil the role requested of him by Voltaire, see the introduction to *Les Lois de Minos*, ed. Simon Davies, in *OCV*, vol.73, p.34-38. Richelieu, who as *premier gentilhomme de la Chambre du Roi* chose the plays that would be performed at the royal court, chose only one of Voltaire’s from a list of twelve presented to him by Lekain.

réussissaient, ce succès pourrait être un prétexte pour faire adoucir certaines lois dont vous savez que je ne parle jamais.’<sup>132</sup> The play deals with Teucer, the elected king of Crete, who is required by the high priest, Pharès, to follow the laws of the kingdom (those of the play’s title) and perform a septennial sacrifice. The potential victim is one of the Cretans’ Cydonian enemies, Astérie. She is saved by Teucer’s decision not to follow a practice that is patently unjust and barbarous, even if it is required by ancient laws and customs. A clear inspiration for the piece comes from the political situation in Poland at the end of the 1760s, where the enlightened and elected king had recently asserted his monarchical authority in the face of the Confederation of Bar (29 February 1768), a proclamation of the Polish aristocrats in defence of the Catholic faith and liberty which had caused civil disruption in the kingdom. This interpretation is supported by Voltaire’s suggestions to the same effect in numerous letters (see, for example, D17753, D17774, D17811, D18069, D18275). As he informed the duc de Richelieu, ‘Vous verrez bien que le Roi de Crête Teucer est le Roi de Pologne Stanislas Auguste Poniatosky, et que le grand prêtre est l’Evêque de Cracovie.’<sup>133</sup> With political events in Sweden taking a dramatic turn in August 1772, Voltaire was also happy to see parallels between the decisive action of Teucer and that of Gustavus III (D17937, D18010, D18069).<sup>134</sup>

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<sup>132</sup> D18482, Voltaire to duc de Richelieu (19 July 1773): Voltaire is clearly referring euphemistically to the ban on his free movement. Both Davies (*Les Lois de Minos*, p.34) and Besterman (in his commentary on D18482) interpret this as a veiled reference to Voltaire’s projected return to the capital.

<sup>133</sup> D17774, Voltaire to duc de Richelieu (8 June 1772).

<sup>134</sup> After the apparent failure of a crown-backed insurrection in August 1772, Gustavus III assembled the Estates (which had been dominated alternately by two factions, the Hats and the Caps) and reproached them for their past corruption and licence. At this assembly he declared a new Constitution giving him more power in the state, which was passed by the Estates.



Voltaire was keen to make known to his correspondents that the notes following the authorised printed versions of *Minos* were as important, if not more important than the play itself (D18032, D18206, D18278).<sup>135</sup> The tenor of these notes corresponds to the humanitarian message of the play and Voltaire does not hesitate to show his didactic intentions: 'Le but de cette tragédie est de prouver qu'il faut abolir une loi, quand elle est injuste.'<sup>136</sup> References are made to Poland (p.183) and Sweden (p.184, 191) but the major emphasis of the notes is on human sacrifice throughout history, up until the convictions of La Barre and d'Etallonde: 'N'a-t-on pas vu dévouer à une mort affreuse et à la torture plus cruelle que la mort deux enfants qui ne méritaient qu'une correction paternelle? [...] Mais aussi n'est-il pas juste que les auteurs de cet horrible assassinat public soient à jamais en exécration au genre humain?' (p.178). In certain letters, Voltaire confirmed this emphasis of the work, telling Marmontel in February 1773 that the notes on human sacrifices were its 'principal objet' (D18206). Given the possible explanations just mentioned, all of which seem entirely reasonable, it must be asked why Voltaire believed that this play in particular, through its subject matter or the treatment thereof, would bring an end to his exclusion from the capital? French diplomatic involvement in Gustavus's *coup d'état* may well have given Voltaire hope that the parallels that could be drawn between this Swedish monarch and Teucer, would encourage the former to petition Versailles on his behalf.<sup>137</sup> However, it must be remembered that the play was

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<sup>135</sup> See Simon Davies, 'Les notes des *Lois de Minos*: pertinence ou impertinence?', *SVEC* (2003:03) p.238-44.

<sup>136</sup> *Les Lois de Minos*, ed. Simon Davies, p.168, note (g).

<sup>137</sup> This is suggested in Besterman's commentary and by Davies, who explains, 'The Valade edition [the unauthorised edition that was printed in Paris] had also dashed the patriarch's hopes of a return to Paris as the veiled but complimentary portrait of the Swedish monarch might have induced him to

conceived well before the *coup* of Gustave III, making this explanation invalid. The support for Poland's king, or the general message of the work could hardly have brought the required *rapprochement* between Ferney and Versailles.

The appearance of a pirate edition of *Les Lois de Minos* towards the end of January 1773 caused Voltaire some concern (see, for example, D18164, D18175, D18184, D18199, D18222) as the desired result for the *philosophe* was that the play, dedicated to the duc de Richelieu, would be approved by the authorities.<sup>138</sup> However, Voltaire was keen to let it be known that neither his play nor his person was enjoying protection. He assured Camer that the notes attached to the printed play would be of interest to 'honnêtes gens' such as 'le Roi de Suede, celui de Pologne, L'Impératrice Catherine et Federic 3' but not to his own king: 'Pour Louis 15 je ne crois pas qu'il s'amuse à lire ces rogatons.'<sup>139</sup> This list of 'honnêtes gens' echoed a similar one announced earlier in 1772 in a letter to D'Argental and others: 'Ce sont aujourd'hui les rois de Suede, de Dannemark, de Prusse, de Pologne et l'impératrice de Russie qui me protègent. Nul n'est prophète en son pays' (D17619). Can we take his word for it? Voltaire was well aware of the transparency of allusions to the coup Maupeou in his work (D17787, D18036, D18046, D18275) but insists in a letter to Richelieu of May 1772 that this is not his aim (D17753). The paradoxical effect of a Voltairian disavowal is to make us question the truth of what is being denied. The fact that Voltaire had been so pro-active in explaining the origins of his play and how it

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intervene on his flatterer's behalf: "j'avais imaginé de partir de Crête sur un vaisseau suédois pour venir vous embrasser" (*Les Lois de Minos*, p.34).

<sup>138</sup> D17855, Voltaire to Lekain (10 August 1772): 'M. le Chancelier et MM. Les secrétaires d'Etat me sauraient très mauvais gré d'avoir fait représenter *Les Lois de Minos*, en province, avant d'y être autorisé par eux [...] Je suis donc forcé de vous supplier de me priver d'une satisfaction qui me comblerait d'honneur et de joie [that of seeing the performance of *Minos* in Lyon]'.  
<sup>139</sup> D18032, Voltaire to Cramer ([c.20 November 1772]).

should be understood (and to contradict himself in his explanations) forces us to question his real motives. It seems safe to suggest, as others have,<sup>140</sup> that the presentation of a strong king who rejects legal tradition in favour of a policy inspired by reason, and in the face of opposition from the authorities that uphold this tradition, alludes to the coup Maupeou. Even Voltaire's stated intention to rid his work of allusions that could be prejudicial to the magistrates<sup>141</sup> could only effect a cosmetic change to the piece, the fundamental message of which remained intact. At the start of 1773, D'Alembert wrote to Voltaire and after a brief aesthetic critique of *Minos*, he continued, 'Je crains d'ailleurs que les amateurs de l'ancien parlement, qui ne valoit pourtant guères mieux que le moderne, ne trouvent dans cette pièce dès le premier acte, et même dez les premiers vers, des choses qui leur déplairont, et que l'auteur, en se mettant à la merci des sots, ne les ait pas assez ménagés' (D18127). Was *Les Lois de Minos* an attempt to disseminate a Voltairian message tailored to the needs of the authorities, as *La Méprise d'Arras* may have been? If it was, it failed on one front as it was never played in Paris or Versailles, and Voltaire remained distanced from the capital to his continued disappointment.

Should we then be suspicious of the possibility that all Voltaire's works which emerged during this period were, at best, pandering to royal authority or, at worst, obsequious government 'propaganda'? In short, we should not. This would be an exaggeration of the point, and would also fail to recognise Voltaire's genuine

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<sup>140</sup> *Les Lois de Minos*: Davies only briefly mentions that *Minos* 'could also be interpreted as approval for Louis XV', p.43; See also R.E. Mathews, 'Political allusions in Voltaire's *Les Lois de Minos*', *Nottingham French studies* 12 (1973), p.14.

<sup>141</sup> D17787, Voltaire to the d'Argental (19 June 1772). He informed them that 'Tout ce qui pourrait fournir aux méchants des allusions impies sur les prêtres, ou quelques allégories audacieuses contre les parlements, est ou adouci, ou retranché, avec toute la prudence dont un avocat est capable.'

contentment that at least some minor reform had been made. That in itself was enough to encourage him to write in more than one of his pieces that stem directly from the *coup* Maupeou that the French should expect to see further reform in the future.<sup>142</sup> Whether this was part of his rhetoric of encouragement and flattery which he heaped on kings and their agents, or a conviction which he held personally and privately is not clear and may never be when we consider that we are forced to draw such conclusions on private opinions from the public expression thereof.

### ***The Maupeou Years and Beyond: Voltairian Ideology***

By the end of 1771, Maupeou's reforms were well established. November's *rentrée judiciaire* saw the return of the lawyers whose solidarity with the exiled magistrates could not stretch into a long winter. The extent to which the sovereign courts had been subdued was evident in the general compliance of the reformed courts with the fiscal edict of November 1771. The *Journal historique*, whose *raison d'être* was its opposition to Maupeou, asserted with irony that this new legislation was a *chef d'œuvre* 'par l'art infernal avec lequel on a renfermé dans son ensemble une multitude d'impôts dont chacun aurait été autrefois la matière d'un enregistrement particulier et aurait souffert autant de discussions, de remontrances et

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<sup>142</sup> *Les peuples aux parlements* (1771): 'Nous pourrions crier que notre jurisprudence, dont Louis XIV a commencé la réforme, doit être encore réformée par Louis XV. On nous fait espérer qu'elle le sera. Attendons ce nouveau bienfait'; *La Meprise d'Arras* (1771): 'La France se flatte que le chef de la magistrature qui a réformé tant de tribunaux, reformera dans la jurisprudence elle-même ce qu'elle peut avoir de défectueux et de funeste'; *Questions sur l'Encyclopédie*, article 'Parlement de France': 'L'opprobre de la vénalité dont François Ier et le chancelier Duprat avaient malheureusement souillé la France, fut lavé par Louis XV et par les soins du chancelier de Maupeou, second du nom. On finit par la réforme de tous les parlements; et on espéra de voir réformer la jurisprudence.'



d'obstacles différents.'<sup>143</sup> The edict extended the first *vingtième* indefinitely and the second until the end of 1780, as well as revoking the laws on municipal reform which had allowed towns and boroughs to elect their administrators.<sup>144</sup> Voltaire had realised that with the incremental reform of all the provincial parlements throughout 1771 there was no way back and by November he could write to Vasselier, 'Voilà donc, mon cher correspondant, toute la révolution finie très paisiblement. Voilà M<sup>r</sup> le chancelier couvert de gloire. Si M<sup>r</sup> L'abbé Terray peut en faire autant des finances on ne regrettera pas le règne de Henri 4.'<sup>145</sup> The apparent success of the reforms did not diminish the concerns, or the hopes, that his position in vocal support of the chancellor had created. Throughout the years of Maupeou's chancellorship, Voltaire would continue to justify his position to his correspondents, particularly the *philosophes*. Much of this public self-justification was intended for his exiled former protector, Choiseul, whom he genuinely respected and regretted offending, even if he found it difficult to understand why such offence had been caused. The potential advantage that could be gained from his support of Maupeou was also cultivated, however unattainable it was in reality.

As we would expect, Voltaire's attempts to convince other enlightened members of French society (many of whom saw Maupeou's reforms as a despotic *coup d'autorité*) that he was justified in supporting the chancellor, show his criticisms of the old *parlementaires* at their most scathing. D'Alembert was often

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<sup>143</sup> *Journal historique*, ii.250 (17 December 1771). Cited in Egret, *Louis XV et l'opposition parlementaire*, p.204.

<sup>144</sup> *Contrôleur général* L'Averdy had introduced municipal reform in 1764-65 which had replaced venal municipal officers with elected administrators. See Maurice Bordes, *La réforme municipale du Contrôleur général L'Averdy et son application, 1764-1771* (Toulouse: Association des publications de la Faculté des lettres et sciences humaines, 1968).

<sup>145</sup> D17437, Voltaire to Vasselier (9 November 1771).



privy to Voltaire's declamations against the courts and understandably so, as this leading *encyclopédiste* could hardly be expected to favour those who had condemned his project.<sup>146</sup> Voltaire informed Marmontel at the start of 1772, that he always did on mount Jura what the 'honnêtes gens' of Paris could not do, namely, 'J'ai crié que les pédants absurdes, insolents et sanguinaires, ces bourgeois tuteurs des rois [...] qui se sont souillés du sang du chevalier de La Barre, sont des monstres qui doivent être en horreur à la dernière postérité. J'ai crié et les têtes couronnées m'ont entendu' (D17545). Later the same year, he makes his attempts to excuse his support more explicit by assuring the same correspondent that he 'n[']a] prétendu en tout cela être d'aucun parti.' He does not believe, as others have, 'que j'avais manqué à des personnes très considérables parce que j'avais trouvé la conduite de M: le chancelier très ferme et très juste; parce que j'avais dit hautement que l'obstination d'entacher M: le Duc d'Aiguillon était un ridicule énorme [...]'<sup>147</sup> Condorcet (D19028) and de Lisle (D18936) received similar letters during this period. The inventory of the parlement's sins throughout its history is revealed to all those who would care to correspond with Voltaire, as if to disabuse them of errant thoughts that Voltaire could have harboured ulterior motives in supporting the chancellor. As he told de Lisle, 'Je bénis dieu et celui [Maupéou] qui nous a défaits de messieurs [the *parlementaires*]. Mais je ne l'ai jamais vu, je ne le connais point [...] Je ne lui ai

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<sup>146</sup> Voltaire to D'Alembert on parlement: D15676, D16854, D16869, D16998, D17054. The *Encyclopédie* was condemned by the parlement of Paris on 23 January 1759. D'Alembert did approve, however, of Maupéou's fall from favour in 1774, as he felt that while the old parlements had serious faults, the new had neither the confidence nor the respect of the public. See D'Alembert to Frederick II (12 September and 31 October 1774), in D'Alembert, *Œuvres Complètes* (Geneva: Slatkine Reprints, 1967) v.352-54.

<sup>147</sup> D17978, Voltaire to Marmontel (23 October 1772).

jamais rien demandé.’<sup>148</sup> Others, too, were contacted and informed, in similar terms, of the reasons for Voltaire’s position. The D’Argentals, Voltaire’s ‘anges’, could be relied on to take up his defence with the Parisian public, and he justifies himself to them with the fact that his nephew, abbé Mignot, is a member of the new parlement of Paris. Add to this the atrocity of La Barre’s execution and a visit from *avocat général* Séguier the previous year with threats that his *Histoire du parlement* would be subject to legal proceedings and Voltaire is forced to wonder, and forces his correspondents to wonder, how the old magistrates were ‘si chers à la nation.’<sup>149</sup>

Mme Du Deffand could also be relied upon by Voltaire as a useful mouthpiece, a fact that could in itself explain their voluminous correspondence.<sup>150</sup> However, in the early 1770s, she had a more important and specific function. Paramount in many of Voltaire’s letters during this period is the wish to communicate his continued attachment to Choiseul, whom, he realised, many had felt he had slighted in his support for the new ministry.<sup>151</sup> In exile, the former minister and his wife could not be contacted directly; failing the possibility of transmitting his private message of devotion, Voltaire did the next best thing and made it public. Mme Du Deffand, as a close friend of the Choiseuls and correspondent of Voltaire, was continually requested to pass on expressions of inviolable attachment to the *grand seigneur* from a guilty writer, a task she

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<sup>148</sup> D19007, Voltaire to de Lisle (1 July 1774).

<sup>149</sup> D17564, Voltaire to the D’Argentals (20 January 1772).

<sup>150</sup> As Voltaire requested once of d’Argental in reference to Mme Du Deffand, ‘Je vous prie de lui faire connaître la vérité; elle sait la répandre et la rendre piquante’ (D19110, 5 September 1774).

<sup>151</sup> D17564, D17566, D17588, D17657, D17669, D18277, D18936, D18999, D19051, D19112 (January 1772 – September 1774). Voltaire may well have heard that Choiseul, in his exile, had erected a weather vane atop his château: ‘elle est surmontée d’une tête modelée sur celle de M. de

performed with neither sensitivity nor assiduity.<sup>152</sup> The major frustration that Voltaire attempts to convey to his correspondents is with the illogical reasoning that deems him to have abandoned a protector because of his rejection of a barbarous judicial regime. 'Mais quel rapport, s'il vous plait', Voltaire asks rhetorically, 'entre M: le Duc De Choiseul et cette troupe de bourgeois séditieux que j'ai toujours eu en horreur?'<sup>153</sup> The same month, in a letter to Mme de La Tour Du Pin, he is more explicit: 'La cause de ces bourgeois tirans n'a certainement rien de commun avec celle de vôtre parent aussi aimable que respectable' (D17566). It seems that the rhetoric necessary to save Voltaire from accusations of inconstancy actually necessitated the presentation of an angelic Choiseul and a demonic parlement, and this is made clear in the following letter to D'Argental:

Vous m'avez ôté un poids de quatre cents livres qui pesait sur mon cœur, en me disant que m<sup>r</sup> D'Albe [Choiseul] avait toujours de la bonté pour moi. Mais ce n'est pas assez, et je mourrai certainement d'une apoplexie foudroyante s'il n'est pas persuadé de mon inviolable attachement, et de la reconnaissance la plus vive que ce cœur oppressé lui conserve. L'idée qu'il en peut douter me désespère. *Je l'aime comme je l'ai toujours aimé, et autant que j'ai toujours détesté et méprisé des monstres noirs et insolents, ennemis de la raison et du roi* (my emphasis).<sup>154</sup>

The same dichotomy is presented to Mme Du Deffand almost a year later when Voltaire explains, 'Je n'ai pas cru assurément m'écarter de la reconnaissance que je

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Voltaire, &, le jouet mobile des airs, elle tourne sans cesse au gré des aquilons' (*Mémoires secrets*, 9 November 1771).

<sup>152</sup> As suggested by Besterman's commentaries to D17657, D18999 and D19112.

<sup>153</sup> D17564, Voltaire to the d'Argentals (20 January 1772).

<sup>154</sup> D17669 (1 April 1772).

dois et que je conserve à un bienfaiteur, en m'élevant contre des persécuteurs qui n'ont rien de commun avec lui.<sup>155</sup>

Throughout the ministry of the triumvirate of Maupeou, Terray and d'Aiguillon, circumstances such as Voltaire's general disapproval of the parlements in the justice they administered and in their confrontational relations with the crown, his need to ensure his personal security from the hidebound conservatives of French society, and indeed, his wish to seek the promotion and success of his personal financial projects, all these circumstances forced him to adopt a position regarding the ministry and the parlements that became more entrenched and unequivocal as the requirement to justify it persisted. Certainly, almost every criticism levelled at the parlements in his letters during the ministry of the latter day triumvirs could have equally been made by Voltaire before this period. In fact, many were. What the Maupeou revolution did to Voltaire's view of the courts was exaggerate and caricature it; the circumstances that surrounded the revolution intensified his defence of his exaggerated view; his exaggerated defence of this view was also the result of special circumstances, as we have just seen above; and thus, an idea on the level of personal opinion became, on a rhetorical level - via a matrix of personal, social and political circumstances - an ideology. The residual ideological caricature has been handed down to us unmodified and unquestioned by those who have examined Voltaire's politics.

Now, I am aware that to introduce an anachronism is perhaps unsound in historical argument, but while the term may not have existed in 1774, could we

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<sup>155</sup> D18277 (29 March 1773).

describe as anything other than 'ideological', Voltaire's summary of his views of the parlement as expressed in the following letter to his nephew, the *parlementaire*, Dompierre d'Hornoy?

Je n'aime guères l'esprit qui a si longtemps animé votre corps et surtout la persécution qu'il faisait aux gens de Lettres. Il aurait fallu apprendre à vos confrères que jamais le sénat de Rome ne gêna la liberté de penser. L'assassinat de La Barre en forme juridique fait encor frémir l'Europe. Si vôtre Parlement revient j'espère que vous servirez plus que personne à le guérir de son fanatisme, et à le rendre plus digne d'un confrère tel que vous [...] On reproche à vôtre parlement l'éternelle espièglerie de vouloir embarrasser le ministère, de vouloir se rendre nécessaire par des oppositions souvent inutiles [...] Mais moi je lui reproche la maréchal d'Ancre, L'Anglade, Le Brun, La Barre, Lally et je voudrais même qu'en expiant ces horreurs il se défit pour jamais de juger de ce qu'il ne peut entendre, et qu'il ne se mêlât point de rendre des arrêts sur la philosophie et sur la petite vérole.<sup>156</sup>

The words undoubtedly reflect an ideology, but I would tentatively suggest that they are not as reliable as they first appear. Ideology cannot simply be reconstituted from examples that show a specific use of language, as ideology exists generally on the level of discourse.<sup>157</sup> Another example of Voltaire's view of the parlement should illustrate the point:

Vous [the *parlementaires*] voilà rendus aux vœux de tout Paris. Vous voilà dans vôtre place, et c'est le point principal. Vous serez toujours le boulevard [the bulwark] de la France contre les entreprises de Rome. Vous donnerez la régence du royaume, dans les occasions qui Dieu mercy ne se présenteront de plus de cent ans. Enfin, vous n'avez d'autre

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<sup>156</sup> D19134, Voltaire to Dompierre d'Hornoy (2 October 1774).

<sup>157</sup> I acknowledge here Terry Eagleton's distinction (*Ideology: an introduction* (London and New York: Verso, 1991)) of ideology as being 'a matter of "discourse" rather than "language" [as it] concerns the actual uses of language between particular human subjects for the production of specific effects [...] Ideology is less a matter of inherent linguistic properties of a pronouncement than a question of who is saying what to whom for what purposes' (p.9).



contrainte que celle de ne point faire de mal dans quelques circonstances délicates où vous en pourriez faire. Il est si beau, à mon gré, de rendre la justice; c'est une fonction si noble, si difficile et si respectable par ses difficultés mêmes, que ce n'est point l'acheter trop cher par quelques légères privations.<sup>158</sup>

When discourse is in a constant state of change, ideology is not something that can be fixed. We have seen how Voltaire's discourse changes remarkably depending on his correspondent. However, in both these letters he writes to his nephew, a counsellor of the old parlement de Paris. We have seen his discourse regarding the magistrates evolve over the years; here the difference in time is only a number of weeks. We have also seen Voltaire's discourse respond pragmatically to changes in the political landscape; undoubtedly, the change in the political context in which these words were written, from one letter to the next, was fundamental.

The death of Louis XV (10 May 1774) brought, as Voltaire had predicted, 'bien des changements' (D18942). The young successor of Louis XV may not have disagreed necessarily with the results of the revolution that chancellor Maupeou had effected in the kingdom, but on a personal level, the confidence required by the king in the head of his judiciary was lacking. Maupeou took his title of chancellor into exile on 24 August 1774. Terray was dismissed as *contrôleur général* on the same day, while the duc d'Aiguillon had been replaced in June.<sup>159</sup> Former *premier président* of the parlement of Rouen, Hue de Miromesnil, who had suffered exile himself during the period of Maupeou's chancellorship was named *Garde des Sceaux*. The return to prominence of this magistrate who had been disgraced under

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<sup>158</sup> D19193, Voltaire to Dompierre d'Hornoy (20 November 1774).

Louis XVI's predecessor augured well for his former colleagues.<sup>160</sup> On 12 November 1774 a *lit de justice* was held at which Maupeou's revolution was reversed.<sup>161</sup> The old magistrates were reinstated, while the *Cour des Aides* and *Grand Conseil* were re-established. Certain reforms were introduced, such as the granting of increased competence to certain presidial courts,<sup>162</sup> and an ordinance of discipline was imposed on the parlement in order to reinforce the control of the conservative *grand'chambre* over the obstinate young counsellors of the chambers of *Enquêtes*.<sup>163</sup> This was nevertheless an unmitigated reversal of the uncompromising and authoritarian coup orchestrated by Maupeou almost four years previously. 'Disloyal' magistrates returned, while a 'despotic' ministry was exiled (to adopt the vocabulary that each party would use for the other). We have seen Voltaire's reasons for supporting the latter back in 1771 and the same reasons explain the differing views expressed in the two letters to his nephew quoted above: Voltaire was adept at positioning himself correctly *vis-à-vis* all forms of public authority - whether the central government, the local intendant, the Catholic church or the sovereign courts – in order to guarantee his personal security and prosperity.

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<sup>159</sup> D'Aiguillon was replaced in June by Vergennes (Foreign Affairs) and the comte de Mury (War), while Turgot replaced both Bourgeois de Boyne at the head of Navy (20 July) and Terray (24 August).

<sup>160</sup> Of course, the disgrace of Maupeou had been rumoured even before the demise of Louis XV (J.N. Moreau, *Mes souvenirs*, ii.89-90). The return of Maurepas as chief minister and mentor to the young Louis XVI must also have had an influence on subsequent changes as he favoured the old parlements (Egret, *Louis XV et l'opposition parlementaire*, p.224-5).

<sup>161</sup> Flammermont, *Remontrances*, iii.232-55.

<sup>162</sup> The *présidiaux* were a lower jurisdiction of courts with civil and criminal jurisdiction that were created in every *bailliage* and *sénéchaussée* by the Edict of January 1551. They had experienced a serious decline in the eighteenth century because the value of the cases they had competence to judge was so low, and declining in real terms. This was accentuated by the opposition of the parlements to this inferior jurisdiction.

<sup>163</sup> *Ordonnance du Roi, novembre 1774*, Isambert *et al.*, *Recueil général des anciennes lois françaises*, xxiii.50-57, article 1.

The changes that came with the death of Louis XV had an immediate effect on the Manichean rhetoric that saw Voltaire blacken the *parlementaires* and blanch over his support for the triumvirate with praise for the fallen Choiseul. Less than a week after he had first heard rumours of the king's death, he raged to the comte D'Argental: 'Tout ce qui me fâche c'est l'*injustice* de celui qui règne à Chantelou [Choiseul], et qui doit régner bientôt dans Versailles. Non seulement je ne lui ai jamais manqué, mais j'ay toujours été pénétré pour lui de la reconnaissance la plus inaltérable. Devait-il me savoir mauvais gré d'avoir haï cordialement les assassins du chevalier de la Barre et les ennemis de la couronne? Cette *injustice* encor une fois me désespère (my emphasis).'<sup>164</sup> As time passed, Voltaire's assumption that the king's death would see the return of Choiseul to Versailles was confirmed. He passed on his congratulations through Mme Du Deffand: 'Je lui bats des mains avec le peuple; et je ne le trouve pas moins *injuste* envers moi (my emphasis).'<sup>165</sup> De Lisle was also privy to Voltaire's new feeling that he has suffered an injustice: 'je le regarderai toujours comme le premier homme de l'état [...] J'ai toujours pensé de même; et s'il en doute, je l'aime au point de ne pouvoir lui pardonner.'<sup>166</sup> No longer is Choiseul without fault; in a similar fashion, the old parlement, on its return, can no longer represent every vice of *ancien régime* society. Now, with the return of the old magistrates, 'rendre la justice; c'est une fonction si noble, si difficile et si respectable par ses difficultés mêmes' (D19193). Mellowed by the new political situation, Voltaire could express his approval to D'Argental: 'J'aime la besogne de m<sup>r</sup> De Maurepas

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<sup>164</sup> D18945, Voltaire to d'Argental (18 May 1774). Voltaire had first heard of the king's death on 16 May (D18942). The king had passed away six days previously.

<sup>165</sup> D18999, Voltaire to Mme Du Deffand (25 June 1774).

<sup>166</sup> D19007, Voltaire to de Lisle (1 July 1774).

dans cet arrangement difficile, Il a rempli les vœux du public, et en rétablissant le parlement, il n'a donné aucune atteinte à l'autorité royale. Voilà certainement l'aurore d'un beau règne.<sup>167</sup>

To a certain extent, Voltaire's new attitude to the old parlements is understandable. Vehemently denouncing a defunct body during the Maupeou years was easier than addressing the persistent injustices of the political situation that succeeded it. The symptoms of France's malady were temporarily masked and Voltaire, who was always critical of symptoms and strangely silent on causes, could be outwardly pleased with such a situation. Voltaire's notions of what would be necessary for judicial reform, formulated before the coup Maupeou, were only superficially addressed by the chancellor's revolution in the administration of justice, and yet his response to them would suggest that they were a dream come true. If Voltaire's opinion of the way in which the crown and its representatives had acted over the 1760s had become justifiably more critical (as his view of the parlements had become), the polarising effect of the Maupeou revolution on Voltaire's discourse cleansed the crown and damned the courts more than they both deserved. Voltaire's strong statements of disapproval concerning the parlements should certainly be taken at face value. But consideration should be given to the contexts of their enunciation and the purpose of Voltaire's discourse in these different contexts before his words are explained away *a priori* with reference to fixed political ideologies. Such an approach is the only way to understand the subtleties present in the political ideas of an increasingly politicised *littérateur engagé*.

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<sup>167</sup> D19198, Voltaire to d'Argental (24 November 1774).

## CONCLUSION

Voltaire's relationship with the parlements of France has been seen for too long as one that opposed avowed enemies. This binary opposition, always Manichean in its exalting of the leading luminary of the century of lights and its damning of a conservative, obscurantist and 'feudal' - this is the negative value judgement *par excellence* when discussing the eighteenth century - sovereign courts, is not surprising when we consider that the Enlightenment is still seen by many as a battle between light and dark, between forces of human progress and the privileged traditionalists who opposed it. General statements about Voltaire's view of the parlements and his opposition to them act as an example of, and a justification for, such a view.

In this thesis, I have attempted to question disengaged interpretations of Voltaire's thought from a particular perspective, that of his relationship with the sovereign courts of the *ancien régime*. Such a perspective shows both the flaws of previous analyses and the traps into which the historian can fall when relying on the Voltaire's written words. We cannot truly claim to analyse an individual's thought when we treat enunciations of this thought indiscriminately, as if all have the same



weight and as if all are of a similar 'value' for our purposes. My thesis has also attempted to reconnect Voltaire's political thought with its constituent parts rather than treating it as a single theory to be justified at every turn with cherry-picked evidence that ignores historical context. The constituent parts to which I refer include the matrix of personal relations and the evolution of personal opinions in reaction and in opposition to a sequence of circumstances. In short, I have tried to connect Voltaire's thought, using the example of his relations with the parlements, to a reconstruction of the lived experience that brought about the expression of that thought. Obviously, the transient nature of lived experience makes it elusive, but an analysis of that experience, which respects its constant evolution and which is sensitive to historical context and the rhetorical function of certain enunciations, provides a clearer picture of Voltaire's thought.

My thesis has obviously only scratched the surface of an examination of Voltaire's thought as the expression of a lived experience. The specific parameters of the topic 'Voltaire and the parlements' have forced me to lend weight to certain periods of Voltaire's life at the expense of others. For example, Part One, which represents about one third of this study, deals with a much longer period of Voltaire's life when compared with Parts Two and Three. In this relatively brief analysis I have attempted to dispel some myths about Voltaire's reaction to the courts of law during the majority of his life. His early attachment to the *parlementaire* milieu and his early reactions to the magistrates and the issues that agitated the courts show him, at one extreme, to share the magistrates' opinions in certain matters and, at the other, to be un-interested in the courts. I have also shown how the magistrates should not be immediately considered to be Voltaire's enemy because of their role as censors. In

Chapter 2, we saw that Voltaire was un-interested in affairs of the parlement unless he was personally affected by them. It was only the knife attack by Damiens on the king, and the clampdown that followed this unexpected act that awoke Voltaire to the potential danger of the kind of religious quarrels in which the parlement had involved itself throughout the century.

Part Two dealt with a much more restricted period and therefore in more detail, a reflexion of the increasing complexity of the issues that forced Voltaire to take more notice of the parlements during the very active years of the 1760s, to such an extent that he would write a history of the capital's court. In Chapter 3, I focussed on specific criminal cases in order to show the development of Voltaire's view of the parlements, one which cannot be simply summarised as an abhorrence at the fate of the victims of the French criminal justice system. I also attempted to balance the historical equation that saw the origins of the *Histoire du parlement de Paris* as a reaction to the cases of Jean Calas and the chevalier de La Barre. The surprising change in Voltaire's discourse which can be noted at the end of his parliamentary history suggested that the *philosophe*, while clearly targeting the sovereign courts in his work, was not blind to the monarchies inadequate handling of the conflicts that had blighted relations between the crown and the courts since the mid-century (Chapter 4).

A comparison of Voltaire's treatment of these relations in two historical works whose functions differed, showed the extent to which Voltaire's official version of this contemporary history, as expressed in the *Précis du siècle de Louis XV*, was at odds with the more visceral views expressed, perhaps carelessly, in the more polemical *Histoire du parlement de Paris* (Chapter 5). Such an analysis

indicated that Voltaire was not the unbending defender of royal absolutism that others have suggested, making a re-assessment of his reaction to Maupeou's reforms, with an emphasis on practical rather than theoretical politics, necessary. While Chapter 6 brings to a conclusion the question of Voltaire and the parlements of France, I believe that it justifies the need to extend a new approach to the analysis of Voltaire's politics to other areas of his thought, beyond the specific question of Voltaire's relations with the sovereign courts. The increasing complexity of this problem, particularly over the 1760s and 1770s means that much work remains to be done in the area, work that would draw on the fruits of the critical editions of Voltaire's *Complete Works* that are continually appearing, as these editions should be viewed as points of departure for new studies rather than analyses that draw a line under specific areas of Voltaire studies.

In conclusion, sketching the broad outlines of such an approach to Voltaire's thought, I would adopt a methodology similar to that announced in the introduction to this thesis. First, studies on Voltaire, while often seen as belonging to literary studies should not ignore the most recent historiographical developments in eighteenth-century history. Literary history should not fall behind social, cultural or political histories in its methodology. More specifically, our use of evidence must be more critical: not all of Voltaire's statements have the same value for the purposes of proving his attachment to a particular principle. We must not be ignorant to the pregnancy of Voltairian statements; they may often tell us more about what he wanted others to believe his opinions were, than about the opinions themselves. Nor must we ignore the possibility that certain statements were made to ensure his personal safety in a society that presented significant dangers to an often polemical

writer. Finally, political ideas should not be separate from the lived experience that brought about their enunciation and, therefore, any analysis that does not attempt to investigate this lived experience ignores the complexity of that term 'politics' that is so often taken for granted.

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